

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

CASE NO. 3:17-cv-02278-X

CHARLENE CARTER,

Plaintiff,

v.

SOUTHWEST AIRLINES CO. and
TRANSPORT WORKERS OF AMERICA,
LOCAL 566,

Defendants.

TRANSCRIPT OF THE TRIAL
BEFORE THE HONORABLE BRANTLEY STARR
UNITED STATES DISTRICT JUDGE

V O L U M E 2

Dallas, Texas

July 6, 2022

8:38 a.m.

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1 -- P R O C E E D I N G S --

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3 THE COURT SECURITY OFFICER: All rise.

4 THE COURT: You can be seated.

5 Okay. We are on Day 2 of trial, Day 1 of

6 evidence, and 3:17-cv-2278. That's Carter versus

7 Transport Workers Union Local 556 and Southwest.

8 Let's do appearances. First for Carter.

9 MR. GILLIAM: Matthew Gilliam for

10 Plaintiff Charlene Carter, along with Matt Hill and

11 Bobby Pryor.

12 THE COURT: Thank you.

13 And for Southwest?

14 MR. McKEEBY: Paulo McKeeby for Defendant

15 Southwest, and Brian Morris is going through

16 security, or was a moment ago.

17 THE COURT: We all are at some point. So

18 I'm sorry, double security. I tried to warn the

19 jury, right? Double security is an unwelcome thing

20 to wake up to.

21 Okay. And then for the Union.

22 MR. GREENFIELD: Adam Greenfield on behalf

23 of the Union, with Ed Cloutman, III.

24 And we have a new face here. This is

25 Michael Masoni, our corporate representative.

1 THE COURT: Great to meet you. Thanks for
2 being here.

3 MR. GILLIAM: Your Honor, I'm sorry.
4 Ms. Meggan Jones is our corporate representative,
5 who is also here.

6 THE COURT: Ms. Jones, thank you for being
7 here.

8 MR. GILLIAM: For Plaintiff, I should
9 probably say Charlene Carter is with us here.

10 THE COURT: She's here in the front row.
11 Thank you, Ms. Carter.

12 So let me say first off, we are trying to
13 push out the Talburt and Parker rulings on depo
14 designations right now.

15 I know that is not what y'all expected
16 timeline-wise, and I apologize for the delay on my
17 end.

18 So I'm not sure what that does to the mix
19 of things, but as soon as we give you those rulings,
20 then y'all do what you need to do.

21 MR. HILL: I can adjust pretty much on the
22 fly.

23 THE COURT: Okay. Well, I appreciate
24 that.

25 That is very kind of you to accommodate my

1 delay. So thank you for your patience. I
2 appreciate that.

3 So we will get those out to you here this
4 morning as soon as we can. We are finishing those
5 up and pushing them out on the docket.

6 Okay. So I have the -- I have the
7 explanation of last night from 6:30 and from 8:30.
8 So I have gone through those, and I figured we
9 should just talk through them at the top.

10 So what I wanted to do is maybe pick up
11 with Exhibit No. 15.

12 I will just say this. I think Mr. Frye
13 was going to email y'all and see if we could get an
14 updated exhibit list. I know there were some
15 exhibits that were added to the mix that we got over
16 email. I don't know that we have an updated exhibit
17 list itself.

18 And so I don't know if one party is
19 keeping the list, but if we could get an updated
20 list on the docket and then one in Word form, that
21 would help, because once we start admitting
22 exhibits, I'm going to be the keeper of the Word
23 document, and then I log in what date it was
24 admitted into evidence, what witness it came in
25 with.

1 And so I will take your Word document, add
2 a few columns, and then start keeping tabs of it on
3 the bench.

4 So if whoever has the pen on the exhibit
5 list could get me an updated copy, that would be
6 great.

7 MR. McKEEBY: We will.

8 THE COURT: Great. Thank you very much.

9 Okay. So I have Exhibit 15 as the first
10 one with objections to talk about.

11 I think that Southwest was the first to
12 get their objections in, so I will go through the
13 ones y'all did first. But any time we are on an
14 exhibit, I will talk about everyone's objections to
15 that exhibit. All right?

16 And then once we finish Southwest, we will
17 come back to the ones that the Union had unique
18 objections to.

19 So I guess Exhibit 15 is the first one
20 that we had objections to. And I think -- well,
21 that's -- sorry. That was Union only.

22 The first one that Southwest and the Union
23 had objections to is 21, I think 21 and 22.

24 So this is emails regarding the recall
25 campaign. And Southwest was making relevance, undue

1 prejudice, jury confusion objections.

2 Union was making similar objections.

3 I guess this also gets to the point of
4 similarly-situated or non-similarly situated
5 employees, a limine issue that I addressed
6 previously.

7 So let me ask Southwest or Union, whoever
8 wants to go first, if you want to talk about your
9 objection. I have read that objection, I have read
10 the response that Carter had from the status report.

11 So if there is anything you want to add on
12 21, let me have at it.

13 MR. McKEEBY: Nothing to add specifically
14 to 21. I think they are going to be the same
15 argument for most of these exhibits from Southwest's
16 perspective, is that the Court ruled that the fact
17 that the Union or Union leadership reported
18 employees could be admissible as to the duty of fair
19 representation claim.

20 But the ultimate resolution of those
21 complaints, how Southwest may or may not have
22 disciplined particular employees, was outside the
23 scope of relevant discovery, would result in
24 prejudice, and require us to have to marshal
25 evidence about people who weren't parties to this

1 case, former employees or employees, and that was
2 the holding on the motion in limine.

3 So, again, as long as this type of
4 evidence is limited to the claims against the Union,
5 that is fine.

6 There should be a limiting instruction,
7 though, when the evidence does come in, that limits
8 the relevance, or the jury's consideration, rather,
9 of the evidence to those claims so that they are not
10 asking, Okay, well, what happened to this guy, Greg
11 Hover, who got turned in, and why wasn't he -- why
12 aren't we hearing about whether or not he was fired
13 or not?

14 That's what I want to avoid. That was the
15 design of the motion in limine, or the purpose of
16 the motion in limine.

17 THE COURT: Understood.

18 Anything for the Union to add to that?

19 MR. GREENFIELD: It's just a very similar
20 line of argument.

21 If we look at Exhibit 21, and we can look
22 at page 6, is where there is a list of individuals.

23 To start, we have a Gina Jackson, Beverly
24 Belanger, Miche Foley, Ms. Carter, a Mr. HofeHover,
25 Ms. Kearney, Mr. Rivera. It goes on. And there are

1 additional witnesses or additional individuals that
2 will come up in the same respect.

3 Just to echo what Mr. McKeeby was saying,
4 it puts us in a position to try and explain all of
5 these things to the jury and it really creates a
6 trial within a trial on all of these different
7 individuals.

8 THE COURT: I understand.

9 I guess my question is how similar is it?
10 Because, obviously, from the limine rulings that
11 Mr. McKeeby pointed out, there are things in the ZIP
12 code that I think are fine as to the Union, right,
13 and the duty of fair representation claim. That is
14 not to say that the whole universe is fine.

15 So the question is, where do you draw the
16 line?

17 Can I hear your argument, Mr. Gilliam, on,
18 is this close enough as to where it comes as to for
19 the Union?

20 MR. GILLIAM: Yes. I think they all come
21 in as to the Union on both the duty of fair
22 representation claim and the RLA retaliation claim
23 against the Union.

24 I think they are all covered by the
25 Court's prior rulings on the motion in limine.

1 THE COURT: Well, that was my view as
2 well.

3 So what I'm trying to do is make sure that
4 I keep tabs on exhibits that come in really Union
5 only, right? And so to make sure I give the
6 limiting instruction on those.

7 So I'm going to make a note of these as we
8 talk about them. We may not get to cover all of
9 these before the jury gets here.

10 So if there are others that are in this
11 bucket that are basically union-only exhibits, if
12 you could just ask for a sidebar, flag that for me,
13 or just say "limiting instruction, your Honor," then
14 that will flag for me that this is the Union-only
15 bucket. It is not applicable to Southwest.

16 MR. GILLIAM: Your Honor, I will say there
17 are some communications where Brian Talburt -- they
18 had some communications with Southwest senior V.P.
19 Sonya Lacore and forwarded that to Ms. Stone.

20 And they are relevant in two respects.

21 Not only are they relevant to Ms. Stone
22 and her knowledge of what Brian Talburt was doing
23 and his activities, but they are also relevant not
24 for Southwest's discipline of Mr. Talburt, but they
25 are relevant for Southwest's knowledge and awareness

1 of what Mr. Talburt was doing and saying.

2 THE COURT: Which exhibit are we talking
3 about?

4 MR. GILLIAM: I think specifically this
5 may be 141.

6 THE COURT: Okay.

7 MR. GREENFIELD: Your Honor, while we're
8 pulling that up, if I may, I think the issue with
9 Brian Talburt in some of these initial documents
10 that we are looking at right now is that it does get
11 to -- it starts to get very attenuated.

12 We are talking about, they are trying to
13 make an argument binding the Union because of the
14 actions of an executive board member.

15 Mr. Talburt was not -- he was not an agent
16 of the Union, he's just a rank-and-file member of
17 the Union.

18 So they are trying to -- which leads into
19 our 403 argument about it being confusing to the
20 jury about what actually can and cannot bind the
21 Union. One may be able to, and one absolutely
22 cannot.

23 THE COURT: Sure.

24 Well, I don't know that that means it
25 doesn't come in. I think it is a great

1 cross-examination point.

2 MR. GREENFIELD: Thank you.

3 MR. GILLIAM: I can address that as well,
4 your Honor.

5 We've cited case law in our response to
6 the Union's motion in limine, and we believe that
7 the theory that applies here is one that was
8 established under a case called Communication
9 Workers. It's a National Labor Relations Board
10 case.

11 THE COURT: Well, I think it already comes
12 in. So we have a lot to get to. I just want to
13 make sure I use our time as efficiently as possible.

14 So let's just go in order to keep things
15 simple. So we already laid out some framework. We
16 will get to 141 here in a little bit.

17 For 21, I'm overruling the objections, but
18 I will bring it down with a limiting instruction
19 that it's applied to the Union only, not as to
20 Southwest.

21 22 is the next one we have both Southwest
22 and Union objections to. This is emails regarding a
23 recall campaign.

24 So any brief argument that Southwest or
25 Union wants to make from this, and I will hear a

1 Carter response.

2 MR. GILLIAM: Your Honor, it is the same
3 position as with 21.

4 THE COURT: Understood.

5 Anything to add from the Union?

6 MR. GREENFIELD: I think we have multiple
7 layers of hearsay issues. We are looking at
8 multiple Facebook posts, Facebook documents. And so
9 they are out-of-court statements being offered for
10 the truth of the matter asserted and they violate --

11 THE COURT: What is the hearsay response?

12 MR. GILLIAM: On the hearsay response,
13 they are not really being offered for the truth of
14 the matter asserted, they are being offered for
15 Southwest's knowledge of President Stone struggling
16 with a recall campaign.

17 All right. Then I do have something else
18 to say about that because that again goes to the
19 heart of our motion in limine.

20 The fact that some senior executive who
21 had nothing to do with Ms. Carter's termination got
22 an email in 2013 about the recall election has
23 nothing to do with Ms. Carter's claims regarding her
24 termination in 2017.

25 What they want to do is get this in front

1 of the jury, and say, you know, Look, Southwest
2 should have reported this claim or should have
3 reported this issue back in 2013.

4 But again, Sonya Lacore was not a
5 decision-maker with respect to Ms. Carter's
6 termination, she was not involved in the
7 investigation. She was copied on a couple of
8 documents.

9 THE COURT: Understood.

10 So my ruling on this one is I think it
11 fits within a hearsay exception. However, I do
12 think it still has a limiting instruction that comes
13 in with it.

14 MR. GILLIAM: Your Honor, may I respond?

15 THE COURT: So it comes in as to Union but
16 not as to Southwest.

17 MR. GILLIAM: I think it is relevant to
18 Southwest.

19 THE COURT: How so?

20 MR. GILLIAM: Because this exhibit has
21 nothing to do with employee discipline or
22 comparators at all. It has nothing to do with
23 employee discipline or similarly-situated
24 comparators.

25 It is an email where Southwest senior

1 management is talking about Stone's struggles with
2 the recall campaign.

3 So it's not about employee discipline at
4 all. It's about Southwest's knowledge and their
5 reaction to the recall campaign and Ms. Stone's --
6 the opposition she's dealing with.

7 THE COURT: 20-second response,
8 Mr. McKeeby.

9 MR. McKEEBY: What does that have to do
10 with Ms. Carter's termination four years later? It
11 is irrelevant.

12 MR. GILLIAM: Motive, your Honor.

13 MR. McKEEBY: But these aren't
14 decision-makers. That's why the motive, if it were
15 a decision-maker, then it might be relevant to
16 motive. But Ms. Lacore had nothing to do with that
17 decision, and therefore, it's irrelevant and
18 prejudicial, and that is why it should be kept out,
19 as the Court has already ruled.

20 MR. GILLIAM: On the complaint.

21 THE COURT: I'm not convinced on relevance
22 as to Southwest. So I will still stick to my course
23 and say it fits within hearsay exceptions, but it is
24 still limited as to Union only, not as to Southwest.

25 MR. GREENFIELD: Your Honor, just so we

1 are clear, when you say "limiting," we would ask for
2 a limiting instruction that the posts, as presented
3 by Mr. Gilliam, are not being offered for the truth,
4 and we would ask for that instruction to the jury.

5 THE COURT: I saw that request, and I have
6 never done that before. And I will tell you why.

7 You are asking me to tell them what is
8 going on with a legal side show. I just don't do
9 that. I could say, Well, this is present state
10 mental impression, right? What on earth is that?

11 So I get your request, but -- you can
12 bring that up if you want to in cross, but I don't
13 signal to them. I try not to even tell them what my
14 rulings are, right? If we're over here at a
15 sidebar, I don't even tell them what I ruled, much
16 less why.

17 So I get your point, but I have never done
18 that before, I'm not going to start, because I think
19 it starts injecting a legal debate into the factual
20 resolution that they are getting to.

21 The next one I have is 23.

22 So 22, I overruled the objections, but it
23 will come in with a limiting instruction.

24 23. Any argument from -- well, sorry. I
25 said I would cover Southwest first. That is Union

1 only.

2 scrolling down to Southwest.

3 I have Southwest, next one as the batch at
4 68 to 72.

5 MR. McKEEBY: It is actually 31. But that
6 is a different basis. I don't know how the Court
7 wants to cover it.

8 THE COURT: I will go back to 31. What
9 argument do you want to make on 31?

10 MR. McKEEBY: It is similar argument, but
11 this is different in that it is a statement from a
12 employee or former employee about her social media
13 experience, violations, and discipline.

14 She says in the fourth paragraph, "Each
15 time I was turned in, management would tell me that
16 I was not receiving discipline, but not -- to tread
17 lightly when posting, and reminded me of the very
18 strict social media policy that had been implemented
19 by management."

20 Again, so it has nothing to do with
21 Ms. Carter. It is a statement by a different
22 employee about her situation, and it is going to
23 confuse the jury and is irrelevant for the reasons
24 that are set forth in our motion in limine.

25 And this one is different in that it

1 doesn't even relate, appear to relate to a complaint
2 from the Union or the Union leadership. So this one
3 shouldn't be admitted at all.

4 That's my argument.

5 THE COURT: Okay. Then Union also has
6 arguments.

7 Anything you want to make in addition to
8 those arguments?

9 MR. GREENFIELD: We would echo the
10 relevance argument, but also that this is hearsay.

11 They also have Ms. Jeanna Jackson listed
12 on their witness list. If they would like to call
13 her up and talk about these things, they are
14 certainly able to do that.

15 This is an out-of-court statement being
16 offered for its truth.

17 THE COURT: What is the response on 31?

18 MR. GILLIAM: On 31, Jeanna Jackson was
19 the leader of the recall campaign, and we have
20 evidence showing that she was being reported by
21 Union actors throughout this time period.

22 And again, it is relevant to both
23 Southwest's knowledge of the recall efforts going on
24 and to their retaliatory motive for Carter's RLA
25 claims against Southwest, as well as against the

1 Union.

2 It's also relevant to the DFR claims as to
3 how the Union was responding to Ms. Jackson and how
4 various Union actors were reporting her for
5 discipline.

6 THE COURT: What about hearsay?

7 MR. GILLIAM: On hearsay, it is -- they
8 are mental impressions. We can call Ms. Jackson to
9 verify this information. It's not really introduced
10 for the truth of the matters asserted.

11 THE COURT: So my ruling on this one is I
12 get its relevance and I think it is relevant.

13 The problem is hearsay. If this is
14 present tense mental impression, then everything is.

15 It's a really long letter, right? You
16 could put her on the stand and she could talk about
17 it. If she doesn't remember it, you could use it to
18 refresh.

19 I think it is certainly a topic you can
20 get into, but in this form I think it is hearsay.

21 So I will sustain the objection from
22 Southwest and the Union on hearsay grounds on
23 Exhibit 31.

24 Okay. So are we now to 68 to 72,
25 Mr. McKeeby?

1 MR. McKEEBY: 57 is another one that I
2 raised. It's just a newspaper article. I don't
3 understand the relevance and think it is hearsay.

4 THE COURT: Understood.

5 Anything to add from the Union?

6 It looks like relevance and hearsay are
7 your two objections, Mr. Greenfield.

8 MR. GREENFIELD: Correct, your Honor.

9 THE COURT: So relevance and hearsay for
10 57?

11 MR. GILLIAM: Yes, your Honor.

12 We think it comes in as a party admission
13 by TWU as to why members were there in Washington,
14 DC. They were there to participate in the march.

15 And so it's also relevant as to showing
16 why the Union was attending the -- why they were
17 there at the time they were there and that they were
18 there to attend the march.

19 MR. GREENFIELD: Your Honor, if I may
20 provide a response to that.

21 THE COURT: Briefly.

22 MR. GREENFIELD: This is not a Local 556
23 document. This is a document from a publication by
24 the International Union, which is not a party to
25 this case. It is hearsay.

1 THE COURT: What is the response from
2 Carter to that?

3 MR. GILLIAM: TWU is their parent union.
4 They are Transport Workers Union of America, Local
5 556. And it is -- the article was talking about TWU
6 locals taking action nationwide.

7 THE COURT: Response to the TWU as a
8 parent argument, Mr. Greenfield?

9 MR. GREENFIELD: Well, your Honor, they
10 are not a party to this case. While we are a local,
11 they are very separate. Hence, why you see some of
12 the issues with separation of dues and money that go
13 to the different organizations.

14 They are different entities, and they are
15 asking about an article which we don't have an
16 author to. We don't know who wrote this. We can't
17 test its veracity, for all of the reasons that we
18 exclude hearsay documents.

19 THE COURT: Understood.

20 Okay. My ruling on this one, number 57,
21 is I will go ahead and sustain that hearsay
22 objection. I think, given that it is a parent, I
23 still don't think I can get there without piercing
24 the corporate veil, so to speak.

25 So I'm not going to do that in this

1 context without a showing of commingling in the
2 organizations functioning as one.

3 Okay. What objection are we to next?
4 Mr. McKeeby.

5 MR. McKEEBY: 68 through 72 fall under the
6 same -- I can't resist -- bucket as 21 and 22.

7 They are, again, directly covered by the
8 Court's ruling on our motion in limine, and to the
9 extent admissible, should be admitted with a
10 limiting instruction.

11 THE COURT: Understood.

12 Any additional argument, Mr. Greenfield,
13 on that bucket, 68 to 72?

14 MR. GREENFIELD: It just goes into even
15 further more tangential Facebook posts. So we just
16 renew our relevance and hearsay objections.

17 THE COURT: Understood.

18 My leaning on this one is to allow them
19 in, tangential though they are, and just remind you
20 of the clock and efficiency, right? And efficient
21 presentation. People get bogged down in exhibits
22 all of the time that have marginal relevance, and
23 that is where they kill themselves on the time
24 clock.

25 So I will let it in, 68 through 72, but I

1 will do so with a limiting instruction. So I'm
2 making a note of that, to bring that up every time
3 such an exhibit is offered and admitted into
4 evidence.

5 Okay, Mr. McKeeby, we are through 72.
6 Where are we at now?

7 MR. McKEEBY: 132.

8 And that's another -- it's a relevance
9 objection. But, again, this one doesn't appear to
10 even relate to a report by the Union, so I'm not
11 sure it should come in at all.

12 And so for the reasons raised in our
13 motion in limine, relevance, prejudice, misleading
14 the jury -- or confusing the jury, I should say, it
15 should not be admitted.

16 THE COURT: Understood.

17 Anything to add from the Union?

18 MR. GREENFIELD: Depending on who they
19 bring this in through, it is also hearsay, your
20 Honor.

21 In addition, it's talking about
22 information that they have gathered about potential
23 witness reports, et cetera, which then leads us to
24 the best evidence argument.

25 If there are actual reports of these

1 individuals, for example, Ms. Stone and Ricci Spand
2 making complaints to the company, if those were
3 actually done or done properly, or specifically who
4 they were done by, we should just look at that
5 evidence.

6 THE COURT: All right. Response from
7 Carter.

8 MR. GILLIAM: Yes. It's relevant because
9 it's President Stone and Shop Steward Ricci Spand
10 reporting the recall leader, Jeanna Jackson. So it
11 shows motive, plan, intent, knowledge, opportunity.

12 So it's also an exception to hearsay and
13 directly relevant to Carter's DFR and retaliation
14 claims against the Union.

15 THE COURT: Yes. Okay. I will do the
16 same as I did for 21 through 22, the other bucket.
17 So I will admit it with a limiting instruction.

18 MR. GREENFIELD: Your Honor, may I have a
19 ruling on the best evidence argument as well?

20 THE COURT: Lay out your best evidence
21 argument.

22 MR. GREENFIELD: Okay.

23 THE COURT: Go for it.

24 MR. GREENFIELD: Thank you.

25 THE COURT: Sorry. Can you lay out your

1 best evidence argument?

2 MR. GREENFIELD: Yes, your Honor.

3 So I think the problem is that we have
4 risk of confusion here. It's saying flight
5 attendants Audrey Stone and Ricci Spand alleging
6 retaliation from several other flight attendants.

7 We don't know who to attribute that to.
8 We don't know whether it was Ms. Stone, Ms. Spand,
9 and what capacity and who those retaliation
10 complaints were against.

11 And we should just look at those
12 complaints, if those actually exist, and who they
13 exist against.

14 And I think that's very important,
15 especially for Ms. Stone, because they are trying to
16 pass her actions off for all of the Union and they
17 are trying to create an argument of a pattern of
18 turning in AFO's objectors.

19 Who they are turning in would be directly
20 relevant to that. Maybe they are turning in people
21 who have nothing to do with their argument. But
22 that is what they are trying to conflate.

23 And so if those complaints exist, that's
24 the evidence we should be looking at.

25 THE COURT: So I understand the argument,

1 but I overrule those, because usually the best
2 evidence arguments don't put to the actual trial
3 exhibit that's the best evidence.

4 So if they did, then that gets my
5 attention. But to the extent that it doesn't, that
6 is my understanding of the flaw in the argument.

7 So I will overrule that best evidence
8 argument as well.

9 So I will admit this, 132, with a limiting
10 instruction.

11 Mr. McKeeby, are we to 140?

12 MR. McKEEBY: 140, 141, and 146 fall into
13 the same category, and a familiar one that Southwest
14 objects for the grounds set forth in its motion in
15 limine.

16 And to the extent those documents are
17 admissible, they should be admitted with a limiting
18 instruction.

19 THE COURT: And relevance, prejudice,
20 hearsay are the additional arguments that you are
21 making, Mr. Greenfield?

22 MR. GREENFIELD: Yes, your Honor.

23 THE COURT: Okay.

24 So response.

25 MR. GILLIAM: The same response as to 21,

1 22, 132. These are -- these involve Stone and other
2 Union actors complaining to the company about
3 non-member objectors, and also, Mr. Talburt
4 complaining about the recall leader, Jeanna Jackson,
5 and go to the Union's retaliatory motive and DFR
6 claims.

7 MR. GREENFIELD: Your Honor, if I may, on
8 146, I believe it is a little bit different.

9 THE COURT: Okay. What I will do is let
10 me go ahead and rule on 140 and 141.

11 I will have my same rulings as the prior
12 buckets with 21 and 22. I will admit with a
13 limiting instruction.

14 But let's carve out 146 and hit me with
15 your additional 146 argument.

16 MR. GREENFIELD: Your Honor, if we
17 ultimately just pause for a brief moment, I know
18 that the rule has been invoked in this case, and I
19 have seen a witness enter at this time.

20 THE COURT: All righty.

21 Is anyone in here in the courtroom who is
22 a witness in the case?

23 MR. GILLESPIE: Your Honor, Ms. Stone is
24 here, and I didn't realize there was testimony
25 taking place.

1 THE COURT: Okay. There is no testimony
2 taking place. There is legal argument. But we are
3 talking about exhibits, and so we're basically
4 functioning as if we are at a sidebar.

5 So at a sidebar, I don't let the witnesses
6 hear what is going on and come over here.

7 So I would appreciate it if you would go
8 back out to the hall or find some other place.

9 If y'all need to coordinate to talk
10 timing, I will be happy to excuse a lawyer out to
11 the hall to talk through timing.

12 MR. GILLESPIE: Thank you.

13 THE COURT: Mr. Greenfield.

14 MR. GREENFIELD: Yes, your Honor.

15 THE COURT: Okay. Now 146.

16 I don't know what anyone looks like, so I
17 appreciate y'all patrolling the rule. I'm the only
18 one facing them, but I'm the only one who doesn't
19 know who they are.

20 MR. GREENFIELD: Out of the corner of my
21 eye I was able to catch that.

22 THE COURT: Very good.

23 MR. GREENFIELD: I think 146 is a little
24 bit different in regards to the other documents we
25 have talked about.

1 If you look at page 6, what Ms. Stone is
2 requesting is that the company take objectors off of
3 joint committees between 556 and the Union, joint
4 union company committees.

5 There is nothing illegal about that.

6 And, again, I think they are just using it
7 for prejudicial purposes. If that action is not
8 illegal, then it is irrelevant and it is prejudicial
9 to confuse the jury that this is another action of
10 retaliation, when it is not.

11 THE COURT: What's your response on the
12 additional 146 argument on legality?

13 MR. GILLIAM: Well, I think that, again,
14 it shows that Stone is turning in non-member
15 objectors, just like Ms. Carter. Ms. Carter was a
16 non-member objector.

17 And it shows Ms. Stone's efforts to get
18 the company to act against non-member objectors in
19 this case, taking them off of joint union and
20 employee committees. So, again, it's -- that's -- I
21 think it is relevant for those reasons.

22 MR. GREENFIELD: And, your Honor, to be
23 clear, she's not turning anyone in here. All she's
24 doing is reaching out to the company.

25 If you look at page 6, it is just her and

1 Ms. Stone asking the company to coordinate to take
2 non-members off of joint committees.

3 They objected to the union. They gave up
4 their voice. They don't get to serve on joint
5 committees between the union and the company any
6 longer. That is all Ms. Stone is trying to do.
7 There is no complaint existing in this document.

8 THE COURT: So I get your point. I don't
9 think it rises to the level of unfair prejudice. I
10 think it is a point to bring up on cross to diffuse
11 the value of their exhibit.

12 So I will overrule the objection, I will
13 let it in, and I will include the limiting
14 instruction on 146.

15 Okay. So let's go back up to, at the top.
16 Let me ask...

17 Our jurors are here. So let me say for
18 the objections I didn't get to, Mr. Greenfield, of
19 yours, what you can do is, to save time, if you want
20 to, you can say "same objections as earlier."

21 I have a leaning on what I would do with
22 them. If you want to argue them at sidebar, that is
23 perfectly fine. You may call as many sidebars as
24 you want. But the sidebars that anyone loses, the
25 time goes to them. So keep that in mind.

1 So if you just say, "Objection, same
2 objections as this morning," I know what I'm going
3 to do on them, right?

4 And there may be some that I call a
5 sidebar because I want more argument on them but I
6 have researched them all and so I have a leaning.

7 So I can still be efficient even though we
8 haven't gotten to yours this morning, but call a
9 sidebar. If you really want to argue one to me.

10 Does that make sense?

11 MR. GREENFIELD: Yes, your Honor.

12 Thank you.

13 THE COURT: Okay. As far as opening, are
14 we doing --

15 MR. PRYOR: I have a point about opening.

16 THE COURT: Yes.

17 MR. PRYOR: You ordered Southwest to
18 provide us the demonstrative evidence they were
19 going to use in opening.

20 It is not demonstrative evidence. It is
21 evidence. They are attempting to display to the
22 jury the pictures of the fetuses. That is not in
23 evidence yet. This is opening; it is not evidence.
24 And they are displaying their actual wording of
25 their policies and their policies, it is not

1 demonstrative, it is evidence. It is inappropriate.

2 THE COURT: Understood.

3 Response from Southwest?

4 MR. McKEEBY: Your Honor, I'm not asking
5 for it to be admitted during the opening, obviously,
6 but if these are exhibits that are listed in the
7 documents that plaintiff's counsel provided and they
8 should be raised with the jury during opening.

9 There is nothing wrong with that.

10 I'm not asking it to be admitted,
11 obviously, but the jury is going to hear about the
12 policies. There is no reason they can't see the
13 policy during the opening.

14 THE COURT: Is there anything that you're
15 showing the jury that they have not asked to admit
16 today?

17 MR. McKEEBY: No.

18 THE COURT: Okay. I will allow it.

19 But I want you to preface it with a caveat
20 that this is not evidence. This is what we expect
21 the evidence that will be admitted will show to you.

22 MR. PRYOR: Your Honor, given that ruling,
23 we would like to play some of the video depositions
24 during opening.

25 That's -- it's your ruling, your Honor.

1 You are saying evidence is admitted. We would like
2 to play evidence for the jury as well.

3 THE COURT: No. No one can, right? To
4 play video depo. You can say, we expect you will
5 hear from this witness.

6 MR. PRYOR: But it's not as effective as
7 showing the jury the testimony itself just as it's
8 not as effective for him to say --

9 THE COURT: No.

10 MR. PRYOR: Okay. I tried.

11 THE COURT: Any other issues with opening?

12 Okay. So what is the order? You're
13 going, and then defense. Who is going first? Have
14 y'all arm wrestled over that?

15 MR. McKEEBY: We have not arm wrestled.

16 THE COURT: Okay.

17 MR. McKEEBY: I'm happy to go first.

18 THE COURT: Okay. That works. McKeeby,
19 then Greenfield. Okay. Got it. That's our run of
20 show.

21 We'll bring them in. We'll swear them in.
22 I will give them the standard instructions I need to
23 and then we will open, open, open, and then we'll
24 probably take our morning break and then call our
25 first witness. Fair?

1 MR. PRYOR: Okay.

2 THE COURT: Okay.

3 You can take a -- how about we do this?

4 We're going to take a five-minute break for y'all's
5 sake. You can reset, use the bathroom, if you need
6 to.

7 We are going to line up them up, tell them
8 how the first run goes, and then I will back in five
9 minutes and we will get going.

10 THE COURT SECURITY OFFICER: All rise.

11 (Recess.)

12 THE COURT SECURITY OFFICER: All rise.

13 THE COURT: Okay. Let's bring them in.

14 THE COURT SECURITY OFFICER: All rise for
15 the jury.

16 (The jurors entered the courtroom.)

17 THE COURT: All right. Now, Mr. Frye is
18 going to swear you in as jurors.

19 (The jurors were sworn.)

20 THE COURT: Okay. The United States
21 District Court, in and for the Northern District of
22 Texas is now in session.

23 The Honorable United States District Judge
24 Brantley Starr presiding.

25 All those having business with this Court,

1 draw near and you shall be heard.

2 Please be seated.

3 THE COURT: Okay. Well, thank you for
4 being here.

5 I will say before I give you our starting
6 instructions, that our second president, John Adams,
7 said that the right to vote and a trial by jury are
8 the heart and lungs of American democracy.

9 So thank you for being the lungs of
10 American democracy. We appreciate you serving in
11 this capacity.

12 You now have been sworn in as the jury to
13 try this case. As the judge, I will decide all
14 questions of law and procedure. As the jury, you
15 are the judges of the facts.

16 At the end of the trial, I will instruct
17 you on the rules of law that you must apply to the
18 facts as you find them.

19 You may take notes during this trial. Do
20 not allow your note-taking to distract you from
21 listening to the testimony. Your notes are an aid
22 to your memory.

23 If your memory should later be different
24 from your notes, you should rely on your memory.

25 Do not be unduly influenced by the notes

1 of other jurors. The jurors' notes are not entitled
2 to any greater weight than each juror's recollection
3 of the testimony.

4 Until this trial is over, do not discuss
5 this case with anyone and do not permit anyone to
6 discuss this case in your presence.

7 This includes your spouse, children,
8 relatives, friends, coworkers, and people with whom
9 you commute to court each day.

10 During your jury service, you must not
11 communicate any information about this case by any
12 means, by conversation or with tools of technology.

13 For example, do not talk face-to-face or
14 use any electronic device or media, such as a phone,
15 computer, the Internet, or any Internet or messaging
16 service, or any other way to communicate with anyone
17 any information about this case, until after I
18 accept your verdict or excuse you as jurors.

19 Do not even discuss this case with other
20 jurors until the end of the case when you retire to
21 deliberate.

22 It is unfair to discuss the case before
23 all the evidence is in because you may become an
24 advocate for one side or another.

25 The parties, the witnesses, the attorneys

1 and persons associated with the case are not allowed
2 to communicate with you. And you may not speak with
3 anyone else in or around the courthouse other than
4 your fellow jurors or court personnel.

5 Do not make any independent investigation
6 of this case. You must rely solely on what you see
7 and hear in this courtroom.

8 Do not try to learn anything about the
9 case from any other source. In particular, you may
10 not use any electronic device or media, such as
11 telephone, cell phone, smart phone, or computer to
12 research any issue touching on this case.

13 Do not go online or read any newspaper
14 account of this trial, or listen to any radio or
15 television newscast about it.

16 Do not visit or view any place discussed
17 in this case and do not use Internet programs or
18 other devices to search for or view any place
19 discussed in the testimony.

20 In sum, you may not research any
21 information about this case, the law, or the people
22 involved, including the parties, the witnesses, the
23 lawyers, or me, your judge, until after you have
24 been excused as jurors.

25 There are some issues of law or procedure

1 I must decide that the attorneys and I must discuss.
2 These issues are not part of what you must decide.
3 They are not properly discussed in your presence.

4 To avoid having you leave the courtroom
5 and to save time, I may discuss these issues with
6 the attorneys at the bench over here at the side,
7 outside of your hearing.

8 I will press a button; it will turn on
9 white noise, and then we will try to whisper loud
10 enough for us to hear but not for y'all to hear.

11 When I confer with the attorneys at the
12 bench, please don't listen to what we are
13 discussing. If the discussions require more time, I
14 may have to have you leave the courtroom until the
15 lawyers and I can resolve those legal issues.

16 I will try to keep these interruptions as
17 few and as brief as possible.

18 The trial will now begin and lawyers for
19 each party will make an opening statement. Opening
20 statements are intended to assist you in
21 understanding the significance of the evidence they
22 expect to be presented. But the opening statements
23 are not evidence.

24 After the opening statements, the
25 Plaintiff will present her case through witness

1 testimony and documentary or other evidence.

2 Next, the Defendants will have an
3 opportunity to present their cases.

4 The Plaintiff may then present rebuttal
5 evidence.

6 After all the evidence is introduced, I
7 will instruct you on the law that applies to this
8 case.

9 The lawyers will then make their closing
10 arguments. Closing arguments are not evidence, but
11 rather the attorneys' interpretations of what the
12 evidence has shown or not shown.

13 And, finally, you will go to the jury room
14 to deliberate to reach a verdict.

15 Keep an open mind during the entire trial.
16 Do not decide the case until you have heard all the
17 evidence, my instructions, and the closing
18 arguments.

19 Before we do opening statements, what I
20 want do is read some stipulations to you.

21 Those stipulations are just agreements
22 among the parties. Lawyers can do this with their
23 clients to make sure that it streamlines the case
24 and gives you agreements that they have reached in
25 advance that no one needs to prove here in court and

1 these lawyers have done that in this case.

2 So there are a total of, I believe, 15
3 stipulations. I'm going to read them to you now.
4 You don't have to write them all down because I will
5 include them in the jury charge that I give to you
6 at the end of the case that includes the relevant,
7 but I will read them for you now.

8 (Discussion off the record.)

9 THE COURT: All right.

10 We are making the jump to hyperspace.

11 Here we go.

12 Stipulation 1: Charlene Carter is a
13 Christian who believes that abortion is the taking
14 of a human life contrary to the teachings of the
15 Bible and the will of God.

16 No. 2: Carter was hired as a flight
17 attendant by Southwest in 1996.

18 No. 3: TWU Local 556 is the local union
19 representing flight attendants working at Southwest
20 Airlines.

21 No. 4: Local 556 served as Carter's
22 exclusive bargaining representative throughout her
23 tenure with Southwest.

24 5: For several years Carter objected to
25 certain decisions by and the leadership of Local

1 556's leadership, email messages, and Facebook
2 postings.

3 6: In September 2013, Carter resigned her
4 membership with Local 556 and was an agency
5 fee-paying non-member objector until her termination
6 in 2017.

7 7: Starting in early 2015, Carter began
8 sending messages to Stone discussing Carter's status
9 as a Union objector.

10 These emails and messages continued for
11 the termination of Carter's employment by Southwest.

12 8: From 2015 through 2017, Carter
13 continued in various efforts opposing the Union and
14 the Union's then president Audrey Stone.

15 Carter supported a recall campaign and
16 posted and sent messages on social media expressing
17 her disapproval of the Union and Union leadership.

18 Carter sent many direct messages to Stone
19 to which Stone never responded.

20 9: In January of 2017, members of Local
21 556, including President Stone, attended a
22 union-sponsored Women's Committee Meeting in
23 Washington, DC.

24 10: On January 21st, 2017, certain
25 members of Local 556 attended the Women's March in

1 Washington, DC.

2 11: On February 14th, 2017, Carter sent
3 Local 556 President Audrey Stone private messages
4 via Facebook Messenger.

5 12: President Stone never sent Carter
6 responses to the private messages.

7 13: On February 22nd, 2017, President
8 Stone reported Carter's emails and Facebook messages
9 to Stone's base manager, Suzanne Stephensen, in Las
10 Vegas, Nevada.

11 14: On March 7, 2017, Southwest held a
12 fact-finding meeting with Carter as part of its
13 investigation of President Stone's complaint.

14 15: On March 14th, 2017, Southwest sent
15 Carter a termination notice.

16 That ends the stipulations. So with that,
17 we are now going to move to the opening statements
18 by the lawyers.

19 Mr. Pryor will open for the Plaintiff
20 Carter.

21 MR. PRYOR: Thank you, your Honor.

22 In 1983, Charlene Carter was 19 years old,
23 and she had a problem. She was living with her
24 boyfriend in Lake Dallas, Texas. Her parents had
25 disowned her because she was living out of wedlock.

1 Her father called her a whore.

2 Her boyfriend was going to college. She
3 had been going to college, but she quit in order to
4 take two jobs to put her boyfriend through college.

5 She was pregnant and she had no support.
6 She waited a day after finding out to tell her
7 boyfriend, and he didn't want a child. He didn't
8 want to get married. He was in a fraternity, he was
9 going to school. And so she was left on her own.

10 A tough decision for a 19-year-old.

11 By the way, we are talking about
12 Charlene's story as it relates to her beliefs and
13 her exercise of her religious freedom here. I'm not
14 trying to convince anyone of anything. I just hope
15 you can respect her experience.

16 So at 19 she goes to see her doctor.
17 She's nine-and-a-half weeks pregnant.

18 She goes home, she pulls out the Yellow
19 Pages, and she looks for the number for Planned
20 Parenthood.

21 She goes there. And she goes there with
22 every intention of getting an abortion if she gets
23 answers that she's really hoping to hear from them.

24 She goes there, and they tell her that
25 that's not a baby, it's a zygote. Don't worry about

1 it. And she accepts that answer.

2 In her heart she will tell you she knew it
3 wasn't right for her, but she accepted it and she
4 had the abortion.

5 And it was devastating for her. She was
6 depressed for years.

7 To deal with the depression, she married
8 her boyfriend. And she will tell you, walking down
9 the aisle, she was thinking about the fact that he
10 had not supported her when she had the abortion.

11 But she married him because the guy you
12 sleep with is the guy you are supposed to marry.
13 And the depression does not go away.

14 She finally, after years, she goes to a
15 church, and at this church -- again, I'm not
16 preaching to you, this is her experience.

17 But at this church, she's at a women's
18 Bible study, and it is basically an auditorium full
19 of women and then they will break into smaller
20 groups.

21 And the speaker stood up and talked about
22 something she had never heard talked about in
23 church.

24 The speaker talked to her about God's
25 love, God's forgiveness, and then the speaker asked

1 anyone that's had an abortion to stand up.

2 There was not a rush of people to stand
3 up. Charlene had been carrying this for years. She
4 stood up and another stood up. And then the speaker
5 talked about people affected by abortion.

6 Eventually, everyone in the auditorium is standing
7 up and they pray.

8 And Charlene felt God's love, she felt his
9 forgiveness, and she felt his guidance that she use
10 her experience to help others and to save babies.

11 And that is what she's done.

12 By the way, she's not out or has ever been
13 protesting in front of a Planned Parenthood office.
14 That is not her. She's helping women that were in
15 the same situation she was when she was 19 years
16 old.

17 That's to inform you about her religious
18 belief and how she exercised it and got fired for
19 it.

20 Now, there is another aspect of her life
21 that is involved in this case, and that is her
22 union.

23 And that begins in 1996. She goes to work
24 for Southwest Airlines. She's very excited about
25 it.

1 She had a son by then.

2 By the way, I should mention that before
3 she had her son, she was pregnant as well and lost
4 that baby. And the reason I mention it is because
5 she lost the baby because of complications from her
6 abortion.

7 That was part of the guilt she was
8 carrying. But, you know, she felt God's forgiveness
9 for that. She moved on and is helping people.

10 But when she went to work in 1996, she was
11 very excited. She went to work as a flight
12 attendant.

13 And Charlene, it's the perfect job for
14 her. She's a people person, she likes helping
15 people, she's a smiling person. She's like what you
16 remember from Southwest in the Herb Kelleher days.
17 She was the perfect employee for that position.

18 In fact, let me fast forward.

19 21 years, from 1996 to 2017, 21 years,
20 she's a flight attendant for Southwest Airlines.
21 How many times was she given a verbal warning, a
22 written warning, a 30-day suspension, a probation?

23 You name whatever penalty they have.

24 Nothing. She was an absolutely stellar flight
25 attendant and gave all of her efforts, as did many

1 other people, to make Southwest Airlines the
2 successful airline it is today.

3 But she had problems with her union.

4 And I want to talk to you just for a
5 minute. The judge explained it during voir dire.
6 Let me cover it again.

7 The relationship between Southwest
8 Airlines, a union, and its employee.

9 So this is Southwest Airlines, this is the
10 Union and this is Charlene.

11 So Southwest Airlines and the Union have a
12 Collective Bargaining Agreement. By law, the only
13 one that can deal with Southwest Airlines regarding
14 employees' benefits, salary, work conditions is the
15 Union.

16 So it is the Union and Southwest.

17 Charlene cannot talk to Southwest about,
18 Hey, I want you to pay me more money. I want better
19 work conditions. It is the union that does that.

20 As a result of that, the law says, Union,
21 you have to look after that employee because that
22 employee can't do it. We give that responsibility
23 to you.

24 You have a fiduciary duty to that
25 employee. It is the highest obligation under the

1 law. You cannot do anything against the interest of
2 that employee. That is the relationship.

3 So Charlene, she pays her dues. She's not
4 terribly active in the union. In the year 2000, she
5 thought the union was focused way too much on
6 national things and politics instead of
7 concentrating on what she thought a union should be
8 doing, better work conditions, better pay.

9 And a candidate ran, a young lady, I think
10 it was Melissa Smith, ran, and Charlene was very
11 excited about that candidacy. Melissa Smith wins.

12 And Charlene then finds out a hard truth
13 about her union. Melissa Smith is kicked out.

14 So Melissa Smith gets elected by the
15 voters, and the seniors at the national and
16 international kicked Melissa Smith out.

17 And this becomes a pattern. You will hear
18 more about it. And this pattern is, they always
19 have an excuse. You know, you kept that laptop two
20 weeks too long, or you didn't turn in this
21 reimbursement slip.

22 By the way, some of the excuses, they are
23 mostly petty, but some of them turned out to be
24 completely false.

25 Charlene's view is that they had

1 disenfranchised the voters, and this person that was
2 going to come in and make the union better gets
3 kicked out.

4 This happens again in 2013. And this is a
5 whole slate of candidates, five candidates for every
6 officer position in the Local 556.

7 All five of the candidates that Charlene
8 supports get voted in. What happens to them? I can
9 tell you, they are all kicked out within less than a
10 year.

11 And who do they put in power? The ones
12 that lost. The vast majority voted for by the
13 people get kicked out, and the ones that lost are
14 put in the offices. One of those is Audrey Stone.
15 She's the president of the union at this point.

16 And so Charlene -- by the way, Audrey
17 Stone is going to be the one that is going to
18 complain and get Charlene fired. The Union
19 president.

20 Charlene starts complaining to her union.
21 You heard the stipulation, sending emails, sending
22 Facebook messages. And she's -- it is always
23 precipitated by something.

24 I'm upset that they kicked out these
25 candidates. I'm upset that you're improperly

1 negotiating for us on a Collective Bargaining
2 Agreement. It's not good enough.

3 By the way, a Collective Bargaining
4 Agreement that was rejected by 87 percent of the
5 flight attendants. So it is not like Charlene is
6 just a rabble rouser. She's just not happy with
7 what her union is doing.

8 And she communicates that to the Union.
9 And there were a couple of ways. One is email
10 messages, but the other is Facebook messages.

11 Charlene had received Facebook messages
12 from her Union president, Audrey Stone, TWU,
13 Transportation Workers Union.

14 Ms. Stone used this Facebook page to send
15 out campaign information and seek support, tell
16 people to support the Collective Bargaining
17 Agreement, you name it.

18 And Charlene would respond, and say, No, I
19 disagree with that. And she responded on Facebook
20 message.

21 And interestingly, they are going to stand
22 up and tell you that really that's Audrey Stone's
23 personal Facebook message, that's not the Union.

24 For years she communicated with her like
25 that, and now they are going to tell you that, Oh,

1 that wasn't really the Union that was handling that
2 communication.

3 My client, Ms. Carter, doesn't know
4 Ms. Stone. She doesn't -- she doesn't know hardly
5 anything about her other than her union activities.

6 The only reason she's communicating with
7 her is to express her views about what the Union is
8 doing. She's not a Facebook friend.

9 So troubles continue. And you will hear
10 about them. There was a recall petition. This
11 became a problem.

12 After the Collective Bargaining Agreement
13 was rejected, a lot of flight attendants decided
14 they wanted to get a recall petition to get rid of
15 these five people that were not initially elected.

16 It's Audrey Stone, Bill Holcomb, John
17 Parrott, Brett Nevarez. There may be another name.

18 And Charlene supported that, and that put
19 a target on her back.

20 By the way, the recall petition was signed
21 by more than 50 percent of the flight attendants.
22 When they sent it to the Union to then have a recall
23 vote, the Union said, your petition is not good
24 enough.

25 The Union appointed some people to review

1 the petition and say it wasn't good enough.

2 Who were the people that appointed them?

3 Audrey Stone, Bill Holcomb, John Parrott, Brett
4 Nevarez.

5 It would be like if I could pick the jury
6 in this case, not that I don't like you guys, but if
7 I could pick my relatives or something, it might be
8 a little more easy case.

9 So this is what Charlene is doing. She's
10 complaining about all of this. And it's not
11 obscene. She's not using curse words. She's using
12 strong language trying to get her point across.

13 I think what you are doing is not moral.
14 I think what you are doing is corrupt. This is
15 terrible. Those kind of things.

16 Absolutely appropriate protected union
17 speech.

18 Brings us to 2017, the year she's going to
19 get fired.

20 In January of 2017, her union decides to
21 spend money for a bunch of people to go up to
22 Washington, DC. And one of the things they did
23 while they were there is they participated in a
24 Women's March.

25 That March was sponsored by Planned

1 Parenthood. And you can imagine Charlene's reaction
2 to her dues being used for that.

3 And I should say something about her dues.

4 At this point in time, she was an
5 objector. And an objector is, she quit the union at
6 some point. And you would think, Oh, so therefore,
7 she no longer has any interest in any of this.

8 No. That relationship we talked about is
9 unchanged by her being an objector. Being an
10 objector says, I quit the Union.

11 By the way, she still has to pay dues by
12 law. She's only represented by the Union still.
13 The Union still has that fiduciary obligation.

14 Well, then what's the point of quitting?
15 There's two points.

16 One is, from the Union standpoint, she
17 can't vote anymore, and then the other is she gets a
18 small reimbursement for all of the political
19 activities they are involved in. Her money doesn't
20 have to go for that. Now, she's still paying the
21 salaries of people that are going to these events.

22 So that's the point of an objector. It
23 certainly makes the Union upset with you if you are
24 an objector, but it doesn't change the legal
25 relationship.

1 You will hear, we believe, instructions
2 from the Court saying they still had that fiduciary
3 obligation to her.

4 So the Union posts pictures of the March,
5 and it's people holding up signs from Local 556,
6 saying, "Pro choice." It is sponsored by Planned
7 Parenthood. She's very upset about it.

8 By the way, it also has pictures of
9 Southwest Airlines' emblem. They wrote, "Southwest
10 Airlines" while they are marching down the street.
11 See if, wherever they talk to you about nexus, what
12 kind of nexus there was. And I will talk about
13 nexus in a minute.

14 Southwest Airlines complains about her
15 Facebook page. We will talk about how Southwest
16 Airlines dealt with the Women's March.

17 Charlene got fired. So Charlene sends a
18 complaint, and she sends it -- where does she send
19 it? Does she send it to every union member? She
20 could have. She didn't. Does she send it to
21 everyone at Southwest? She could have but didn't.

22 She sent a private Facebook message. That
23 means only one person can see it. And that is her
24 Union president. And she sends it to her Union
25 president to try and tell her, what you are doing is

1 wrong.

2 She's trying to make her point as she's
3 allowed to, with her Union president, to say, Don't
4 spend our money like this. And she said, What you
5 are doing supports murder. It is that strong. That
6 kind of strong speech is absolutely appropriate.

7 Southwest Airlines will tell you, Well,
8 that is over the top for us.

9 Well, that speech wasn't to Southwest
10 Airlines, it was to her Union president. She didn't
11 send it to people at Southwest Airlines.

12 They'll say, Well, she was a flight
13 attendant.

14 Now, Ms. Stone was a flight attendant.
15 She was a flight attendant that hadn't been on a
16 plane as a flight attendant in years, but they can
17 still say that. She was receiving that
18 communication as Union president.

19 There is a video, and it shows an aborted
20 fetus or baby, depending on how you look at it, and
21 it's moving.

22 She sent another video -- or another post
23 that Southwest complains about, that is pictures of
24 three ladies' faces in -- I'm sorry for this
25 language, but here we go -- vagina hats or pussy

1 hats, anatomically correct hats that were worn by
2 people at the march that was being supported by her
3 Union.

4 She was upset about that, and she sent
5 that to Ms. Stone, president of the Union, and said,
6 Look what you are supporting. There were children
7 at this March. This is inappropriate.

8 And so she makes her complaint. She's
9 exercising her union right to complain to her union.
10 She's exercising her religious freedom to express
11 her views about life.

12 And Audrey Stone turns her in to the
13 company on February 22, 2017. It is an interesting
14 date, as it turns out. February 22, 2017.

15 And she complains to Southwest Airlines
16 saying that this -- Charlene has violated the
17 company's social media policy.

18 She acknowledges that it's union speech,
19 she acknowledges that it relates to religion, and
20 yet she is still complaining.

21 She has that fiduciary obligation, but
22 she's still complaining. She's trying to get
23 Charlene fired.

24 What else was going on? Let me tell you
25 about the social media policy of Southwest Airlines.

1 And by the way, look at the actions of
2 Charlene. They weren't actions at her job, they
3 were actions dealing with her union.

4 But Southwest will tell you that it's on
5 the job because you sent it to a flight attendant.
6 They ignore the fact that she's the Union president.

7 So Charlene has sent this information.

8 What else is going on with the social
9 media policy?

10 In 2015, Audrey Stone, president of the
11 union, writes a message to all flight attendants,
12 including Charlene, saying, "Southwest's social
13 media policy is terrible. They are applying it
14 subjectively. They are using it to go after people
15 and not other people. This policy is terrible. We
16 are going to try and get Southwest to get rid of it
17 or change it.

18 "And, by the way, don't be reporting
19 people under this policy. You don't know what is
20 going to happen. We will handle these things on our
21 own."

22 That is what Audrey Stone said.

23 As a matter of fact, Audrey Stone defended
24 employees that had violations of the social media
25 policy, including an employee that called other

1 employees "fucktard" and an employee that said
2 somebody should be killed.

3 I mean, a variety of just pretty strong --
4 and what was the defense? The defense was, they
5 were engaging in union activities, spirited passion,
6 election communications.

7 But that apparently doesn't work when
8 you're opposed to the union -- by the way, the
9 people she was defending were always union
10 supporters.

11 So, by the way, also at this time, the
12 Union is communicating with Southwest management.
13 Senior Southwest management, not somebody down here.
14 Somebody up here. Like the second, third top
15 executives at Southwest Airlines.

16 And what are they saying? They are
17 saying, You know, we really should use this social
18 media policy to target some people, get rid of these
19 employees we don't like. We should target them.

20 Okay, wait a minute. I didn't say it
21 right. They said, Target for assassination. It is
22 that strong. It is stronger than what I said. They
23 are going to target these employees for
24 assassination.

25 Most of them are people involved in the

1 recall, as Ms. Carter was. One is a union member,
2 not an officer yet. I don't even think she was in
3 the recall petition. And they are targeting her
4 because they think she could be a leader in the
5 future that could threaten the current leadership of
6 the union, and we need to get rid of her. And they
7 are telling that to Southwest management.

8 Who is she? She's someone that they say,
9 Well, she could appeal to certain members of the
10 union, and we need to stop that.

11 Why did they say that? She was
12 Africa-American.

13 This is going on. This is what Charlene
14 is faced with on February 22, 2017.

15 So also on February 22, 2017, that very
16 same day, the Union, one of the insiders of her
17 team, files a bunch of dossiers. They went through
18 the social media of all of the recall supporter
19 leaders they could find, and they sent it to
20 Southwest and said, These are -- these are people
21 that should be punished under the social media
22 policy.

23 This is the Union using the social media
24 policy. And they had talked about it with Mike
25 Hafner, the senior guy I was telling you about.

1 They talked about it with Sonya Lacore, another
2 senior person at Southwest Airlines.

3 By the way, on February 22, 2017, Sonya
4 Lacore sends out a "read before you fly" to every
5 flight attendant.

6 And what does she talk about? She talks
7 about social media policy and workplace bullying,
8 the two policies they fired Charlene on.

9 It is just coincidence it all happened on
10 February 22, 2017.

11 Southwest investigates this, and Ed
12 Schneider is the person they say made the decision.

13 And you will see his notes. He
14 acknowledges she's engaged in exercising her
15 religious beliefs. He acknowledges she's engaged in
16 union activity. No accommodation is given for that.

17 I'm going to mention accommodation for a
18 moment, and I think the judge will instruct you on
19 this.

20 When you are dealing with a religious
21 belief claim, the employee doesn't have to ask for
22 an accommodation, the company has to give it.

23 Charlene didn't know to use the word
24 "accommodation" when she went and met with them, but
25 she told them about her beliefs and why she felt she

1 needed to do this.

2 And they didn't say anything about
3 accommodation, never granted her one, never talked
4 about the fact that there should be some
5 understanding that what she was doing was union
6 activity and religious belief.

7 No, they wanted to fire Charlene, and they
8 did.

9 Okay. I want to talk a little bit about
10 what Southwest and the Union might talk to you
11 about. And we think this is a lot of misdirection,
12 but this is not -- you will be able to follow this.

13 They can -- I think they will try to
14 confuse this, but it won't work.

15 Okay. One thing they will say, no
16 evidence. Charlene doesn't have any evidence we
17 were intentionally discriminating against her
18 because of her religious belief. We were just
19 trying to enforce our social media policy.

20 They will say, Do you know if Ed Schneider
21 discriminated against you?

22 And she will say, No, except that I got
23 fired.

24 And so what they are saying is, Oh, so you
25 don't know what Ed Schneider was thinking.

1 That is not the way it works. You can't
2 sue someone for what they are thinking. You could
3 all be thinking really horrible things about me
4 right now, I would never know. And that is the same
5 in this situation. What you sue people for are
6 their actions, and their actions reveal their
7 thoughts.

8 But you don't really need their thoughts.

9 They fired her because she exercised her
10 union rights. They fired her because she exercised
11 her religious beliefs.

12 They will say, Well, this was over the
13 top.

14 There is no over-the-top exception to free
15 speech. There are numerous exceptions to free
16 speech. And the same thing for religious belief and
17 union activity.

18 Illegal conduct. Defamation. Libel. So
19 there are all kind of things. But otherwise, your
20 free speech, your religious freedoms, you should be
21 able to exercise them.

22 By the way, she didn't do it at work. She
23 did it on her personal Facebook page.

24 So by the way, this over the top, this is
25 really graphic, they're going to show you a picture

1 of this baby or fetus in opening, and it makes the
2 point of what's the best way to communicate your
3 position.

4 In our country, when something bad
5 happens, we all get upset. When something bad
6 happens and it's on video, things change.

7 And Charlene wanted change, and she wanted
8 to change her union. And they want to take away her
9 right to use the most effective speech possible.

10 I think they will try and distance
11 themselves from some people that had these
12 communications with upper Southwest management.

13 One of them is an officer of the Union,
14 Mr. Nevarez. The other one is Brian Talburt, who
15 was in her inner circle.

16 You will see that she was -- they were
17 acting on behalf of the Union.

18 They will say, Well, we didn't fire all of
19 these recall -- all these recall people that came
20 in, we didn't fire them.

21 You know, that is -- well, they fired
22 Charlene. They reprimanded Jeanna Jackson, one of
23 the recall people. They reprimanded Greg Hofer.
24 You don't have to get them all, you get enough, you
25 will get the desired result of making these people

1 shut up.

2 Okay, nexus. I want to talk to you about
3 nexus.

4 So they say, Okay. So maybe Charlene was
5 engaged in union activity when she sent that to her
6 Union president. Maybe that was religious activity.
7 But she posted that video on her personal Facebook
8 page, and people could get confused and think that
9 she was actually speaking on behalf of Southwest
10 Airlines.

11 And because of that, there is a nexus, and
12 we fire her for violating our social media policy.

13 Let's look at the nexus.

14 By the way, that nexus, let's see what
15 evidence they put on about all of the people at the
16 Women's March, there is no doubt about nexus. It
17 was posted the next day, says Southwest Airlines.
18 They didn't do that, but they fired Charlene.

19 So here is the nexus. They have a rule
20 that wherever it's social media policy, Okay. We
21 will look back about 18 months. Not about. 18
22 months.

23 And so they go to Charlene's Facebook page
24 and they are looking for a nexus, something that
25 would say she's acting on behalf of Southwest

1 Airlines. They can't find it.

2 And there is -- Denise Gutierrez sends an
3 email saying, What do I do? I can't find it.

4 What do they do? Let's just go a little
5 bit past 18 months. Let's go a year. Oh, no, let's
6 another year. Let's go another year.

7 They go years back, three, four -- I think
8 one of them is five years, to say, Ah, this is the
9 connection to Southwest Airlines.

10 So what do they find, three, four years
11 ago, from this post? She is standing in a cockpit
12 of Southwest Airlines in her uniform. So that
13 picture --

14 By the way, you can't do it. You'd have
15 to scroll for 15 or 20 minutes really working at it
16 to get there. And that is telling the world that
17 that Charlene Carter is taking a position on behalf
18 of Southwest Airlines such that people would be
19 confused.

20 So we've got to fire you for that.

21 Okay. I have two others.

22 One is -- I'm not sure when this picture
23 was, but it doesn't show anything. One of them is
24 her standing with friends and she's getting her
25 picture taken and she's wearing a lanyard, she's got

1 this thing around, it's this little plastic thing
2 that's got something in it.

3 And they say, We know that is a Southwest
4 Airlines lanyard.

5 You can blow it up. The world is not
6 going to know it. You can't tell anything from it.
7 This is the straws they are grasping at to look for
8 a nexus to fire someone that was opposed to the
9 Union.

10 So they had one other where she has her
11 Southwest Airlines sticker, I don't know how many
12 years ago this one was, and an emblem under it that
13 relates to support for America and Israel that she
14 started wearing after 9/11. It was absolutely no
15 problem with her company.

16 But they are going to use that now from
17 years ago to say, We are going to fire you today for
18 this.

19 So there is no nexus, and she's entitled
20 to post on her personal Facebook page.

21 They will say, Well, Charlene was an
22 objector. There is nothing Audrey Stone, president
23 of the Union, can do to her because she's not in the
24 Union. So the only thing she can do is go to
25 Southwest Airlines and ask for help.

1 Well, first of all, it wasn't an
2 employment communication, so she shouldn't be going
3 to Southwest Airlines.

4 And Audrey Stone, president of the Union,
5 reported other people that weren't objectors, like
6 Jeanna Jackson.

7 What did she report Jeanna Jackson for?

8 This is -- it is hard to -- you can't make
9 this up.

10 Jeanna Jackson told union members, Our
11 Union president is bringing charges against union
12 members.

13 Something you would want to know if you
14 were a union member about your president.

15 And the president of the union reports her
16 for that and Southwest Airlines reprimands her.
17 Takes the charges. So she -- she is reporting these
18 people for other reasons.

19 You can take people to the police. She
20 says that Charlene threatened her. You read these.

21 Charlene was upset that Ms. Stone was the
22 president and continued to be paid and not have to
23 work at American Airlines, and she was constantly
24 complaining about the salary, constantly, a few
25 times.

1 So at the end of one of her posts, she
2 says, basically, I can't wait for the recall
3 petition to be successful. Can't wait to see you
4 online.

5 That's a common phrase, "see you online,"
6 among flight attendants.

7 And it was saying, I'm going to be glad
8 that you are no longer being paid and you have to
9 work like the rest of us.

10 Audrey Stone is going to tell you that was
11 a threat. I will show you documents from Audrey
12 Stone where she uses that phrase, and I don't think
13 she was intending to threaten people.

14 They could block her.

15 The other thing that the Union could have
16 done is, they could have banned her. And that would
17 be significant to Charlene. She wants to go back
18 there. She wants to go back to her job. She wants
19 to go back to her union some day. She still wants
20 her union to start doing union things and not all of
21 these other things.

22 And when that happens, she looks
23 forward -- she will still pay dues, but she looks
24 forward to being a member.

25 So there are a lot of things they can do.

1 They will say, Charlene didn't know
2 Ms. Stone's beliefs, she didn't know Ed Schneider's
3 beliefs, and so why would she be sending these
4 things to them?

5 That is the point. She's sending it to
6 the Union president. She's not -- not that she's
7 not interested, but the point is not is what Audrey
8 Stone's personal opinion, what as president of the
9 union are you doing regarding this issue?

10 All right. We are on a clock here, by the
11 way, and I know it's hard being preached to for so
12 long. I'm almost done.

13 Damages. Charlene has been out of a job
14 for five years. She tried to get a job at other
15 airlines. It was difficult. She didn't get hired.
16 And part of it was during COVID. So there is
17 reasons.

18 They will say -- by the way, that is back
19 pay. They should have been paying her for the past
20 five years.

21 And they will tell you, Well, those last
22 couple of years she didn't work very much. She only
23 worked four or five flights.

24 Which is perfectly appropriate under the
25 Collective Bargaining Agreement. But let's see if

1 they tell you why she didn't.

2 Okay. So she's -- but she's more than
3 ready, willing and able to go back to work full
4 time, wants to get her job back. She's suffered
5 emotional distress because of this. She had to go
6 to counseling. We will tell you about all of that.

7 I think that is all very important. I
8 think she's entitled to a significant amount of
9 money here.

10 But Charlene wants you to protect her
11 religious freedom. You don't have to agree with
12 her, but protect her rights. She wants you to
13 protect her rights and others that want to complain
14 about their union and effect change. That is what
15 she wants protection from.

16 If, at the conclusion of this, you think
17 that these actors over here did what I have been
18 talking to you about, we are going to ask you to
19 award punitive damages. It is going to take a
20 significant amount of money to get these people to
21 change.

22 Thank you.

23 THE COURT: Thank you, Mr. Pryor.

24 MR. McKEEBY: Sidebar.

25 (Thereupon, the following proceedings were

1 had at sidebar:)

2 THE COURT: I was just making sure.

3 MR. McKEEBY: I'm sorry.

4 THE COURT: Good to go? Do you need a
5 sidebar?

6 MR. GREENFIELD: Brief objections.

7 His reference to fiduciary duty, duty
8 being the highest obligation in the law, it's not
9 the case. There is lots of legal standards that are
10 higher than fiduciary obligation.

11 And making reference to a free speech
12 claim does not exist in this case. He's talking
13 about specific free speech. There is no government
14 entity, there is no free speech claim.

15 THE COURT: What I can say is, Everything
16 you've heard is lawyer argument. Remember, the
17 evidence is yet to come in, and as to the law, I
18 will give you the law at the end of the case.

19 Any objection to that? I will say that
20 and then give you the baton.

21 (Thereupon, the sidebar was concluded and
22 the following proceedings were held in open
23 court:)

24 THE COURT: Okay. Just a brief reminder
25 before Mr. McKeeby goes, is everything you heard was

1 not evidence, it was a preview of the evidence they
2 expect; and any references to the law, remember, I
3 will give you the relevant law at the end of the
4 case.

5 With that, Mr. McKeeby is going to open
6 for Southwest Airlines.

7 MR. McKEEBY: Thank you.

8 Good to see everyone and good to see you
9 without the plexiglass today.

10 My name is Paulo McKeeby, and I represent
11 Southwest Airlines.

12 There was a lot of discussion yesterday
13 and today, as well, about religious freedom.

14 And religious freedom is important to
15 Southwest. It is important to anyone. And that
16 involves the right to pray to the God of your
17 choosing. It involves the right, in some
18 circumstances, to express your religious beliefs.

19 But freedom of religion also involves the
20 freedom to be free from others forcing their
21 religious beliefs on you, particularly when that is
22 done in a harassing, bullying, intimidating manner,
23 as was the case with Ms. Carter and her
24 communication to Ms. Stone.

25 And particularly, they have talked about

1 free speech and freedom of religion. We are talking
2 about the workplace here. We are talking about
3 communications between one employee and another
4 employee.

5 They want to talk about Ms. Stone as the
6 president of the Union. She was the president of
7 the Union, but she was also a flight attendant, a
8 fellow employee of Ms. Carter, who was entitled to
9 the benefits of Southwest's policies just as much as
10 any other employee was, including Ms. Carter.

11 Ms. Carter was not terminated for the
12 beliefs in her mind about her religion, which
13 Southwest -- we are not saying that those aren't
14 valid or that she didn't sincerely believe those
15 beliefs. She was terminated for what she did.

16 She was terminated for her conduct, and
17 that conduct was sending videos of aborted fetuses
18 or babies, depending on your perspective, to a
19 co-employee. That is not acceptable and that is why
20 Ms. Carter was terminated.

21 She won't accept responsibility for her
22 conduct. That is partly why we are here today.

23 But Southwest had a responsibility as
24 well, and that responsibility was to protect its
25 employees from that kind of conduct. And that's why

1 Ms. Carter was terminated.

2 Let me introduce some of the other folks
3 at my table. Brian Morris is here. He's my
4 colleague at my law firm.

5 Meggan Jones is with Southwest Airlines.
6 She's our corporate representative.

7 You will hear from her later in the case
8 as a witness.

9 Also, you will see Chris Maberry. He's
10 Southwest's in-house counsel.

11 And Lauren Bobis-Armstrong is also with
12 Southwest's legal department.

13 And last, but definitely not least, is
14 Kate McKinney, our technical person. And I
15 introduce her now because I would like her to
16 commence the PowerPoint.

17 Let's talk about what the evidence will
18 show in this case.

19 First, the evidence will show that Ms.
20 Carter was terminated for violating multiple
21 Southwest policies.

22 And this is what she did to violate those
23 policies. These are still photographs of the videos
24 that Ms. Carter sent to Ms. Stone. We will show you
25 the videos during the course of the evidence, but

1 these are the still shots.

2 This is what she sent to Ms. Stone. This
3 is what she posted on her Facebook page.

4 Let's talk about Southwest's social media
5 policy.

6 Obviously, you can't read the policy, but
7 I have highlighted a couple terms.

8 Content that can be disrespectful,
9 malicious, harassing violates the social media
10 policy; and also, content that could be viewed as
11 damaging to Southwest's public perception.

12 We will talk about that in just a moment.

13 And the policy makes clear that violations
14 of the policy can result in termination.

15 There is going to be no dispute that
16 Ms. Carter was aware of this policy. All employees
17 receive this policy. All employees sign off on this
18 policy. It tells employees what the expectations
19 are with respect to social media posting.

20 Let's talk about that middle bullet, the
21 content being viewed as damaging, could be viewed as
22 damaging to the public perception.

23 On Ms. Carter's Facebook post were
24 pictures like this of her in her Southwest uniform.
25 Like this. Referencing the company's CEO, former

1 CEO and founder.

2 So clearly someone who viewed, a member of
3 the public who viewed her Facebook page, could see
4 that she was an employee of Southwest Airlines and
5 could see the videos that you are going to be shown
6 in this case.

7 And Southwest had the legitimate
8 contention under its social media policy that that
9 harmed its reputation, it harmed its public
10 perception, and yes, it was a factor in her
11 termination.

12 Let's also talk about Southwest's bullying
13 and hazing policy. That's another workplace policy
14 where bullying and hazing is defined as malicious
15 and unwelcome or severe mistreatment that harms,
16 intimidates, offends, or humiliates an employee.
17 And it also includes the concept of cyberbullying.
18 So it incorporates to some degree the social media
19 policy.

20 And it also, like the social media policy,
21 specifically warns employees, we take this seriously
22 at Southwest. And you are going to hear about
23 Southwest's culture of respect amongst its employees
24 and how important that is to Southwest.

25 And so employees are warned, Look, if you

1 bully and haze your coworkers, it could result in
2 discipline up to and including termination.

3 The evidence will also show that Southwest
4 did not terminate Ms. Carter because of her
5 religious beliefs.

6 As you are all aware, Southwest is a large
7 company. They run an airline. They are not in the
8 business of discriminating against employees because
9 of their religion. They frankly don't care in terms
10 of religious beliefs because they know that they
11 have a diverse workforce and they are going to have
12 employees of all different faiths among its
13 workforce.

14 You will hear from the employees who
15 participated in the investigation of Ms. Stone's
16 complaints and you will hear about the religious
17 views of those individuals.

18 From Ed Schneider, from Maureen Emlet.
19 Those people are Christian, just like Ms. Carter,
20 and they also have similar views regarding abortion
21 as Ms. Carter.

22 You will hear from those witnesses, and
23 you should ask yourself, are these people really
24 going to take action against Ms. Carter based on
25 what is in her mind? No.

1 The termination was based on her conduct,
2 what she did with respect to sending those videos to
3 Ms. Stone.

4 The evidence will also show that
5 Ms. Carter was not terminated based on her
6 opposition to the Union. You are going to hear, and
7 you have already heard, a lot about the historic
8 dispute between Ms. Carter and perhaps others and
9 the Union. And what you have to understand, first
10 of all, is that Southwest and the Union are
11 separate.

12 That's one reason why the Union has
13 separate counsel and is a different party in this
14 case. The Union has different bylaws, the Union has
15 different guidelines, the Union has different
16 leadership, different payroll. They are not the
17 same as Southwest Airlines.

18 And when the Union wants to do something,
19 like, oh, by the way, go on a Women's March in
20 Washington, they don't ask Southwest to sponsor or
21 approve that because it's separate from Southwest.
22 They do it.

23 So Southwest didn't have a dog in that
24 fight or a role in their -- in their participation
25 in the Women's March other than to provide them

1 transportation, which Southwest is contractually
2 obligated to do under the Collective Bargaining
3 Agreement.

4 Southwest simply did not have a dog in the
5 fight with respect to Ms. Carter's disputes with the
6 Union, as the evidence will show.

7 And moreover, just as the people who were
8 involved in the decision to ultimately terminate her
9 employment, they had no idea of Ms. Carter's
10 religious beliefs. They also did not know about
11 Ms. Carter's disputes with the Union until the
12 investigation.

13 The people who conducted the
14 investigation, Mr. Schneider, the Denver-based
15 manager, he didn't -- he had never met, had never
16 spoken to Audrey Stone, the union president. He had
17 motivation to protect her or to treat her
18 differently than anyone else, any other employee.

19 And, again, Ms. Carter wasn't someone
20 that, frankly, Mr. Schneider had to think about
21 because she wasn't working. She took three flights
22 during the year prior to her termination.

23 Southwest got involved in this dispute and
24 in Ms. Carter's dispute with the Union when
25 Ms. Stone, the Union president -- I think you are

1 going to hear every time from counsel for
2 Ms. Carter, every time they refer to Ms. Stone, you
3 are going to hear "the Union president" -- she was
4 also a fellow employee. Do not forget about that.

5 Ed Schneider didn't forget about that when
6 he conducted the investigation, and Southwest didn't
7 become involved in this until Ms. Stone made her
8 complaint. And when that happened, that triggered a
9 process.

10 So the evidence will also show that
11 Southwest conducted a fair and thorough
12 investigation. It was a three-week investigation
13 involving multiple different departments and
14 different people from whom you will hear during the
15 course of this trial.

16 You will hear from Maureen Emlet in labor
17 relations; you will hear from Ms. Jones, the
18 assistant base manager at the time; and you'll hear
19 from Denise Gutierrez in employee relations, all of
20 whom who had a role in the investigation and
21 ultimate decision with respect to Ms. Carter's
22 termination.

23 Ms. Carter had the opportunity to tell her
24 side of the story during the investigation. This
25 wasn't just a matter of the company talking to

1 Ms. Stone, the company talked to Ms. Carter, first,
2 in what will be referred to as a fact-finding
3 meeting over which Mr. Schneider presided.

4 And he asked Ms. Carter, Why did you do
5 this? What is your side of the story?

6 And Ms. Carter was given that opportunity.

7 And then there was something that you will
8 hear about called a Step 2 hearing. It gave
9 Ms. Carter the opportunity to, again, tell her side
10 of the story, to yet another layer of Southwest
11 management. This time a gentleman by the name of
12 Michael Sims who you'll hear from.

13 MR. PRYOR: May I approach? I have an
14 objection.

15 THE COURT: Same objection we discussed
16 previously?

17 MR. PRYOR: This is -- we haven't gotten
18 to that one yet but...

19 THE COURT: Okay. Hold on. Sidebar, no
20 speaking objections.

21 (Thereupon, the following proceedings were
22 had at sidebar:)

23 THE COURT: Better be good.

24 MR. PRYOR: I thought you were about the
25 last call. I'm talking about what he's talking

1 about now.

2 Step 2 is not her opportunity to be heard
3 on this. And you gave a limine that they could talk
4 about the Union did its job in Step 2 but Step 2 is
5 not part of this case nor is the arbitration.

6 MR. GREENFIELD: Which is absolutely
7 directly related to --

8 THE COURT: What number do you think?

9 MR. PRYOR: I'm sorry?

10 THE COURT: What limine number do you
11 think I limined it out?

12 MR. PRYOR: I have to --

13 THE COURT: Can you go find it?

14 MR. PRYOR: I can find it. I wasn't aware
15 that limined. I will look. I will look. Thirty
16 seconds.

17

18 MR. McKEEBY: Your Honor, it is part of
19 the process. It is part of the investigation.

20 THE COURT: So I limined out the
21 arbitration ruling itself.

22 MR. PRYOR: Twelve.

23 THE COURT: I have got it.

24 Yeah, okay.

25 I didn't limine that out. What I limined

1 out was the actual arbitration ruling and any
2 testimony that gets in depth discussions of the
3 arbitration agreement. The last chance agreement,
4 Step 2 still comes in for the purpose under 408.

5 MR. PRYOR: Maybe I misunderstood.

6 The Step 2 and arbitration had everything
7 to do with the claims that she's making here. That
8 is what he's arguing, that she had her chance to
9 raise these issues, that is not where she had the
10 chance. This is where she had --

11 MR. GREENFIELD: You can argue that.

12 THE COURT: You can clean that up and
13 obviously at some point later on in the proceeding
14 when we have the arbitration agreement that does not
15 come in. I can tell the arbitrator is looking at
16 different issues than you are looking at here.

17 MR. PRYOR: You are overruling my
18 objection?

19 THE COURT: Well, you shouldn't have this
20 objection now.

21 So what I can do, at the end, I can say,
22 look, you will hear from me more fully at the end of
23 the case.

24 MR. PRYOR: Okay. Well, I have another
25 conference after. I just need to make a record on

1 it.

2 THE COURT: I think you already have.

3 MR. PRYOR: Okay. I didn't get a ruling.

4 THE COURT: I'm overruling your objection.

5 MR. PRYOR: Okay. That's fine.

6 THE COURT: What I'm going to say at the
7 end of this, I'm going to say, well, the facts and
8 law, you haven't heard any of the facts and the law
9 you will hear from me.

10 MR. PRYOR: I'm not trying to be
11 difficult. I wanted to make sure.

12 THE COURT: I understand.

13 (Thereupon, the sidebar was concluded and
14 the following proceedings were held in open
15 court:)

16 THE COURT: Okay. Sorry, Mr. McKeeby.
17 You can continue.

18 MR. MCKEEBY: Thank you, your Honor.

19 So where was I? The Step 2 hearing
20 presided over by Michael Sims, whom you will hear
21 from.

22 Another opportunity for Ms. Carter to tell
23 her side of the story to another member of
24 Southwest's executive team.

25 Mr. Sims agreed with the decision of

1 Mr. Schneider to terminate Ms. Carter's employment
2 based on her conduct. Based on the videos that she
3 sent to Ms. Stone and based on her other conduct.

4 And normally, that would be the end of my
5 presentation and I would shuffle back to my table
6 and sit down. But this case is different for
7 another reason.

8 At the end of the Step 2 hearing, Mr. Sims
9 had a decision to make. He had different options.
10 And he'll tell you about those options when he gets
11 on the witness stand.

12 He could either uphold the termination
13 without reservation, he could rescind the
14 termination or he could adopt a middle ground.

15 Now, during the Step 2 hearing, Ms. Carter
16 said, I love the company. I love Southwest. I love
17 my job. What I want is my job back, and she
18 appeared for the first time in this process, she
19 appeared remorseful, she appeared to recognize that
20 she had stepped over the line by sending those
21 graphic videos to Ms. Stone.

22 Because of all of that and because she was
23 a long-term employee, Mr. Sims said, you know what,
24 let's give her a second chance. Let's go ahead and
25 give her her job back.

1 And that was presented to Ms. Carter by
2 Mr. Sims at the end of the Step 2 hearing.

3 Now, you're probably asking yourself,
4 well, okay, what are we doing here then?

5 Ms. Carter turned down the offer of
6 reinstatement.

7 And so the last thing the evidence will
8 show, ladies and gentlemen, is that Ms. Carter quit
9 on Southwest by refusing that offer.

10 She's going to have an explanation for why
11 she did that. She's going to talk about the
12 conditions that were associated with the last chance
13 agreement that she was presented, that a document
14 would be in her file for two years, that, ladies and
15 gentlemen, required her to comply with Southwest's
16 policies.

17 That is what she had to do, comply with
18 Southwest's policies.

19 She gave up her right to backpay for the
20 few weeks that the investigation occurred when she
21 wouldn't have been flying anyway. That was no
22 concession. She wasn't going to be flying during
23 that period anyway.

24 Mike Sims fully expected Ms. Carter to
25 say, thank you, I will take my job back because that

1 is what she said during the Step 2 hearing. I love
2 the company. I want my job back.

3 And Mr. Sims said, you know what? Look,
4 she's showing some remorse, she wants her job back,
5 I will give her the chance. And he's shocked when
6 he founds out through the union that it wasn't good
7 enough for Ms. Carter. It is another example of her
8 unwilling to accept responsibility for her actions
9 and for her conduct.

10 So to summarize very briefly, Ms. Carter
11 was not -- was terminated because she violated
12 company policy by sending those videos, as well as
13 other conduct that we will talk about.

14 Southwest did not terminate Ms. Carter
15 because of her religious beliefs. There will be no
16 evidence before you that any of these decision
17 makers thought less of Ms. Carter because she was a
18 Christian. They were Christians too.

19 And they did not terminate Ms. Carter
20 because of her longstanding dispute with the Union.

21 The Southwest employees involved in this
22 decision frankly didn't care. They deal with the
23 union. They don't care who the union leadership is.

24 Mr. Schneider, who will you hear from, who
25 was the primary original decision maker after the

1 fact finding meeting, had never spoken to Audrey
2 Stone prior to that investigation.

3 And you will hear about the investigation
4 that it was thorough and that it was fair and it
5 gave the opportunity for Ms. Carter to be heard on
6 two occasions during the fact finding meeting and
7 during the Step 2 hearing.

8 And then, finally, you will have to ask
9 yourself, why did Ms. Carter not accept that job
10 that she said she wanted.

11 Thank you, ladies and gentlemen.

12 THE COURT: Thank you, Mr. McKeeby.

13 MR. POSTMAN: Can we do our objections?

14 THE COURT: Yes.

15 (Thereupon, the following proceedings were
16 had at sidebar:)

17 MR. PRYOR: Your Honor, in addition to the
18 objection previously raised, we object to the
19 mention of the last chance agreement. It is not a
20 mitigation of damages, which is, as the Court's
21 limine ruling.

22 Now, mitigation of damages does not
23 require -- you don't have to mitigate if it requires
24 you to give up your rights. She had to give up her
25 rights of free speech, or religion, her union

1 activities, backpay, release the company. That is
2 not a mitigation of damages document.

3 And I have not been able to address it
4 because if I raised it first, I waive it. All
5 right. And it being talked about in openings is
6 inappropriate. It is inappropriate evidence.

7 The other objection is Rule 404(a)(1),
8 talking about Southwest Airlines's employees
9 religious beliefs. 404(a)(1) specifically says,
10 Character evidence is not permitted to show what you
11 did here as a trade of what you did for something
12 else. That is what he's arguing.

13 Those are my additional objections.

14 THE COURT: Response?

15 MR. McKEEBY: Your Honor, on the last
16 chance agreement, I mean, the issue of
17 reasonableness is obviously critical to mitigation,
18 so if having to give up her rights made the refusal
19 to accept the offer reasonable, then that is
20 something that they can put in through their
21 witness.

22 Ms. Carter can say, Here's why I didn't
23 sign it. I thought it was unreasonable. I didn't
24 want to give up my rights. And the jury --

25 MR. PRYOR: Which is claiming --

1 THE COURT: Understood.

2 I think it comes up under 408. I think he
3 still has a path to argue that. I don't think it
4 is, as a matter of law, points that there is failure
5 to mitigate.

6 MR. PRYOR: So I think it is a matter of
7 law point and I don't think it is a gray area. But
8 we can't raise it ourselves to respond to it until
9 they do it in evidence.

10 THE COURT: Sure.

11 MR. GREENFIELD: Your Honor, if I may add
12 to that because I think that last chance agreement
13 is directly related to the DFR claims against the ^^

14 THE COURT: I've already ruled on it,
15 so --

16 MR. GREENFIELD: Okay.

17 THE COURT: -- I'm sticking to my ruling
18 on the 404.

19 Is there any argument you want to make in
20 response to 404 character evidence? Actually, I
21 don't know that I fully understood your 404
22 argument.

23 MR. PRYOR: I'm sorry?

24 THE COURT: I don't know that I fully
25 understood your 404 argument. What are you saying ^

1 is the purpose --

2 MR. PRYOR: What he has said, he repeated,
3 several employees, he said they're Christians, they
4 wouldn't do this.

5 MR. McKEEBY: Yes.

6 MR. PRYOR: They are pro life. They
7 wouldn't do this.

8 Now, in Rule 404(a)(1) says, you can't use
9 character evidence in that manner.

10 THE COURT: Well, I'm going to give the
11 same instruction that I gave, which is, everything
12 you heard is not facts or law, you will hear that
13 from me at the end of the case.

14 MR. PRYOR: I take it you're overruling
15 all my objections.

16 THE COURT: No.

17 I'm actually saying the way I'm going to
18 deal with your second objection is to say that
19 everything you've heard, right, the words that came
20 out of his mouth are not evidence. 404 is evidence.
21 Right?

22 So what I'm saying is, if that comes in,
23 in a future form, we'll have to deal with it under
24 404.

25 Here I just say, not evidence, everything

1 you just heard.

2 So I'm overruling the last chance
3 agreement argument. I'm going to deal with it in a
4 curative instruction.

5 MR. GREENFIELD: Your Honor, one last
6 thing.

7 After opening statements, is there a way
8 to move the podium? I can only see half of the
9 jurors.

10 THE COURT: We will be taking a break
11 after you do your opening, we can adjust the podium
12 if we need to, but it is still tethered to the floor
13 with wires, so we will figure that out. Okay. So
14 we will go back and I'll give my instruction.

15 (Thereupon, the sidebar was concluded and
16 the following proceedings were held in open
17 court:)

18 THE COURT: Okay. As Mr. Greenfield
19 approaches, I'm going to give you the same
20 instruction that I gave after Mr. Pryor opened,
21 which is everything you heard is not evidence. It
22 is a preview of what evidence might be.

23 It's also not the law. You can only hear
24 the law from me, and that will only come to you at
25 the end of the case.

1 With that, Mr. Greenfield, you can
2 approach the podium and give your opening on behalf
3 of Local 556.

4 MR. GREENFIELD: I can lean.

5 THE COURT: Okay.

6 MR. GREENFIELD: I can be here.

7 As much as I would like to roam, I can
8 stay put.

9 Good morning, everyone. It is good to see
10 y'all again.

11 To remind you, my name is Adam Greenfield,
12 along with my co-counsel, Edward Cloutman, III, and
13 our corporate representative, Michael Masoni.

14 We are here on behalf of Transport Workers
15 Union, Local 556.

16 You also will see an associate, Daniel
17 Dailey, from Kingdom Litigators, in the gallery.
18 You might have seen him during jury selection.

19 He will be helping me out with various
20 computer things because he's just better at that
21 than I am, so...

22 You have heard a lot about the contentious
23 issues between the Union and Ms. Carter and
24 Southwest.

25 We will hear a lot of about that during

1 the evidence so I don't want to dive into all of
2 that and rehash it at this point.

3 What I would like to focus on is what
4 Ms. Carter's counsel wanted to focus on. Actions.
5 So let's start with actions.

6 This is a case about someone who wants to
7 be able to say whatever she wants, whenever she
8 wants, however she wants to say it.

9 And look, I understand that kind of desire
10 for personal freedom. I do. I think a lot of us
11 do. It can be a pretty natural human feeling.

12 But there are places that exist in most of
13 our lives where we understand that our actions may
14 have consequences, there's a certain level of
15 respect between folks is required.

16 Work is one of those places for a lot of
17 us.

18 At work, where employees are being paid by
19 a company for their work as part of a huge team,
20 like the Southwest flight attendants, you are not
21 solely an individual with your own agenda.

22 How you speak to folks you work with
23 matters.

24 What you say to them or about them
25 matters.

1 How you say it matters.

2 And if an employee makes folks she works
3 with feel traumatized or threatened by her
4 communication, we expect that you jurors will find
5 that federal law does not protect her from the
6 consequences of her actions.

7 Now, this case is also about employee
8 rights.

9 And as I have said, you have heard already
10 a complicated story that will get more layered as we
11 go forward about the competing rights of Southwest
12 employees in the workplace.

13 You will hear about some of these issues
14 that stem way back to 2013. We expect that the
15 evidence will show you that some of these issues
16 that arose earlier come from issues of fraud, and
17 theft, and that is why some of these Union officials
18 were kicked out of office.

19 You will hear, we believe the evidence
20 will show that the recall petition that they have
21 mentioned is also rife with fraud. Signatures of
22 dead people included.

23 But I don't want to get bogged down there.
24 I don't want to talk about Ms. Carter.

25 Charlene Carter's right to speak her mind

1 under Southwest Airlines' social media policy and
2 the other side of it, Audrey Stone's right to not be
3 harassed and threatened by a coworker.

4 Yes, she was president of the Union. Yes,
5 she was always a flight attendant, an employee of
6 Southwest Airlines.

7 I want you to listen to how those rights
8 came into conflict and the steps folks took in
9 pursuit of those rights.

10 Counsel for Southwest talked a bit about
11 that process, fact finding meeting, Step 2 process.

12 Ms. Carter was represented by Union
13 individuals during all of those steps.

14 We expect the evidence to show from
15 Ms. Carter's mouth that she felt the Union
16 represented her excellently during that time period.

17 Plaintiff brings this suit alleging that
18 all other parties involved have conspired against
19 her to violate her rights. And that the assertions
20 or protections of anybody else's rights, like the
21 rights of Ms. Stone, are purely for show.

22 I want you to ask yourselves what Charlene
23 Carter would have been happy with. Short of Audrey
24 Stone continuing to endure her cyberbullying while
25 saying nothing. What would have satisfied

1 Ms. Carter?

2 This is a case about someone who wants to
3 be able to say whatever she wants, whenever she
4 wants, however she wants to say it.

5 We expect the evidence will show that
6 Charlene Carter has been as vocally critical of the
7 Union as she could have possibly been, for years,
8 before her termination.

9 And she was never reported to Southwest
10 Airlines. I want you to listen for how the
11 plaintiff explains her claim that she was retaliated
12 against for her anti-Union speech when all of her
13 previous anti-Union speech went unreported.

14 We expect the evidence will show that it
15 was not until this specifically traumatic and
16 threatening communication that Ms. Stone reported
17 the plaintiff to Southwest Airlines.

18 A line had been crossed.

19 I want you to listen for what the
20 plaintiff claims Ms. Stone should have done instead.

21 I want you think to about what options
22 Ms. Stone had, given that Ms. Carter wasn't a member
23 of the Union, and her harassing conduct only seemed
24 to be escalating.

25 She objected to the Union. She gave up

1 her voice in certain respects.

2 As pointed out by Ms. Carter's counsel,
3 she couldn't vote in elections, she couldn't go to
4 membership meetings.

5 So did Ms. Stone have to just stay quiet
6 and accept being harassed? Being bullied?

7 I want you to listen to whether plaintiff
8 offers you any answer other than she has the right
9 to say whatever, however and whenever.

10 We expect that the evidence will show that
11 Ms. Stone was acting in her individual capacity,
12 exercising her federally protected rights to be free
13 from coworker harassment.

14 Ms. Carter is not the only employee whose
15 rights deserve to be protected today.

16 But more than anything else, I want you to
17 think about whether the plaintiff's theory of the
18 case makes sense, whether they meet their burden of
19 proving that it is more likely than not that every
20 single person you hear from, from the Union or
21 Southwest Airlines, are lying and are actually
22 involved in one huge conspiracy against Charlene
23 Carter.

24 Because that is what it takes. This was
25 what plaintiff is arguing. Make no mistakes. This

1 case is about someone who wants to be able to say
2 whatever they want, whenever they want, and however
3 they want to.

4 Thank you.

5 THE COURT: Thank you, Mr. Greenfield.
6 Sidebar?

7 (Thereupon, the following proceedings were
8 had at sidebar:)

9 MR. PRYOR: Raise the same objection
10 regarding the comments regarding Step 2.

11 THE COURT: Understood and overruled.

12 And I will give the instruction what you
13 heard is not evidence, I just give that after
14 everyone, all right? And then I will give them
15 their first break and then let's go ahead and put
16 the first witness on the stand during the break.

17 (Thereupon, the sidebar was concluded and
18 the following proceedings were held in open
19 court:)

20 THE COURT: Okay.

21 Same thing that I have told you after
22 everyone's opening, everything you heard is not
23 evidence, right? And the law comes from me at the
24 end of the case.

25 So you're about to hear some evidence.

1 We're going to take our morning break, get
2 our first witness on the stand, bring you back in
3 and then you're going to start hearing evidence.

4 So with that, we'll all rise for the jury.

5 I'll give you the same three instructions:
6 Don't talk to anyone in the courthouse other than
7 your jurors and court personnel, and only talk to
8 them not about the case. And don't do any research
9 on the case.

10 Thank you.

11 (The jurors exited the courtroom.)

12 THE COURT: Okay. We should have them
13 back in 10 minutes at 10:46, so let's endeavor to be
14 back here a minute or two before that, then we can
15 put our first witness on the stand.

16 Who will that first witness be?

17 MR. PRYOR: Audrey Stone.

18 THE COURT: Okay, got it. So we can go
19 ahead and bring her in.

20 Are there any issues we should talk about
21 with the witness not in the room?

22 MR. GILLIAM: Not that I know of.

23 MR. McKEEBY: Not from Southwest.

24 MR. GREENFIELD: Same here, your Honor.

25 THE COURT: We are trying to tilt that

1 podium. I'm sorry. It's a big, old podium. Right?
2 It is substantial.

3 So if you need to like move your chair or
4 that table a little bit, we can do that, too. We
5 don't care. Everything is moveable to the extent
6 the wires permit.

7 MR. GREENFIELD: Can I kind of give you
8 a --

9 THE COURT: You have permission to slide
10 as you see fit.

11 MR. GREENFIELD: Thank you, your Honor.

12 THE COURT: Okay. We will see you in
13 about eight minutes.

14 Thank you.

15 (Recess.)

16 THE COURT SECURITY OFFICER: All rise.

17 THE COURT: Okay. Let's bring in the
18 jury.

19 (The jurors entered the courtroom.)

20 THE COURT: Okay. You can be seated.

21 And Carter can call its first witness.

22 MR. HILL: First witness.

23 MR. PRYOR: At this time Charlene Carter
24 calls Audrey Stone.

25 THE COURT: All right. Ms. Stone, you are

1 in the box already. Thank you for being here.

2 If you could stand up and Mr. Frye will
3 administer the oath.

4 (AUDREY STONE was duly sworn by the
5 Clerk.)

6 THE COURT: Okay. You can take a seat.
7 And I have the same questions of every witness,
8 which is, I'm going to ask for some separation
9 between questions and answers. That way if anyone
10 has an objection to the question, I can rule on it
11 before you answer.

12 If I sustain an objection, that means you
13 don't have to answer the question. If I overrule
14 the objection, it means you can go ahead and answer
15 the question.

16 That also let's us keep a clean record for
17 the appellant proceedings, because if two people at
18 the same time, we can't write it down.

19 With that, you can proceed.

20 DIRECT EXAMINATION

21 BY MR. PRYOR:

22 Q. Good morning.

23 A. Good morning.

24 Q. Would you state your name?

25 A. Audrey Stone.

1 Q. Would you speak up?

2 A. Audrey Stone.

3 Q. Ms. Stone, were you Union president of Local
4 556 starting sometime in January '13?

5 A. No.

6 Q. When were you president?

7 A. Starting in June 2013.

8 Q. Can you move the microphone closer to you?

9 THE COURT: I'm turning it up, too.

10 BY MR. PRYOR:

11 Q. When were you president?

12 A. Beginning in June 2013.

13 Q. June 2013.

14 And as Union president and a union member, it
15 was important to you that Southwest Airlines not
16 interfere with union activities, true?

17 A. It depends.

18 Q. So there were some union activities that you
19 wanted Southwest Airlines to interfere with?

20 A. No. Not union activities.

21 Q. All right.

22 That was my question, ma'am. What was the
23 problem?

24 A. I'm sorry. I didn't understand your question.

25 Q. You didn't understand it. I said it very

1 clearly. That is your explanation?

2 A. Yes, sir.

3 Q. Okay.

4 Tell me your confusion again.

5 A. My confusion was about Southwest and union
6 activities and what that meant. And I should have
7 taken more time to --

8 Q. I'll repeat it exactly again. See if you
9 understand it this time.

10 As Union president and union member, it was
11 important to you that Southwest Airlines not
12 interfere with union activities, true?

13 A. If they were protected union activities, yes.

14 Q. Okay. What is an unprotected union activity?

15 A. There are things that members could choose to
16 do on their own that wouldn't be sanctioned by the
17 union that would not be considered protected union
18 activity.

19 Q. Well, you just defined something that is not
20 union activity.

21 Tell me a union activity that you could engage
22 in that Southwest Airlines, you think it would be
23 appropriate for them to interfere with.

24 A. If it is an official union activity, it
25 wouldn't be.

1 But, again, there are situations where a member
2 may choose to do something and say they are doing it
3 on behalf of the union but it is not union
4 sanctioned.

5 Q. So a union member communicating you -- with you
6 about union activities, that is union activity,
7 right?

8 A. If they are a member, yes.

9 Q. What if they are not a member? What if they're
10 an objector or opt out, that doesn't get protection
11 from your Union?

12 A. No, that is not correct. It just wouldn't be a
13 member communicating with the union.

14 Q. Okay.

15 So let's talk about members, first of all, and
16 members communicating with the Union about union
17 activities.

18 You want Southwest to not be involved in that,
19 true? Or not interfere with it?

20 A. Could you repeat your question, please?

21 Q. What did you hear?

22 A. I heard Union and Southwest involvement, isn't
23 that true.

24 Q. Okay. Answer your question then. I will
25 listen to your answer.

1 A. Can you not repeat your question?

2 Q. I have to repeat my question and your question
3 that you heard.

4 You are under oath today, true?

5 A. Yes, sir.

6 Q. You agree to answer your questions truthfully
7 and without evasion?

8 A. Yes, sir.

9 Q. From this point forward, will you do that?

10 A. Yes, sir.

11 Q. Okay.

12 So as Union president, it was important that
13 when a union member is engaging in communications
14 with its union regarding union activities, that
15 Southwest Airlines not interfere, true?

16 A. Yes.

17 Q. And it is also, if I put the word "opt out
18 person or "objector, your answer would still be the
19 same, true?

20 A. If it is a union activity, yes.

21 Q. That was the question, ma'am. It presumed
22 union activity. Why did you need to add it for an
23 objector?

24 A. I didn't. I made a statement earlier about
25 sometimes people pretending or acting on behalf of

1 the union and it not actually being union
2 activities.

3 Q. Did -- were you the lead negotiator for a
4 Collective Bargaining Agreement with Southwest
5 Airlines?

6 A. Yes.

7 MR. PRYOR: Let's look at Exhibit 6.
8 I'm going to give you a couple of pages
9 from that.

10 THE COURT: Is this for the witness only
11 or are you moving it into evidence?

12 MR. PRYOR: I'm sorry, your Honor?

13 THE COURT: Is this for the witness only
14 or are you moving its admission into evidence?

15 MR. PRYOR: I will move for its admission,
16 sure.

17 THE COURT: Okay. Number 6. Do we have
18 an objection to 6?

19 MR. McKEEBY: No objection.

20 MR. GREENFIELD: No objection.

21 THE COURT: Okay. 6 is in evidence.

22 (The referred-to document was admitted
23 into evidence as Plaintiff's Exhibit 6.)

24 THE COURT: You can publish to the witness
25 and the jury.

1 BY MR. PRYOR:

2 Q. Let's look at the first page.

3 Do you recognize Exhibit 6 as the Collective
4 Bargaining Agreement between Southwest Airlines and
5 your union?

6 A. Yes.

7 Q. Now let's look at page SWA 07.

8 I'm going to read the first -- you negotiated
9 this, so this is your agreement, right?

10 A. Yes.

11 Q. And you say, "No employee covered by this
12 agreement will be interfered with, restrained,
13 coerced or discriminated against by the company or
14 the union because of membership in the union."

15 Then you say, "All employees shall be free to
16 engage in lawful union activities or to refrain from
17 such activities." True?

18 A. Yes. That is the language in the contract.

19 Q. So employees are free to engage in lawful union
20 activities.

21 Let's go to page 011.

22 In paragraph 2, it says, "Employees covered by
23 this agreement shall be governed by all company
24 rules, regulations, and orders previously or
25 hereinafter issued by proper authorities of the

1 company which are not in conflict with the terms of
2 this agreement."

3 So all of the employees are covered by employee
4 policies unless they are in conflict with the terms
5 of this agreement. True?

6 A. Yes.

7 Q. Now, let's go back to what we just read before
8 on 07.

9 "All employees shall be free to engage in
10 lawful union activities or refrain from such
11 activities."

12 So if an employee is engaged in lawful union
13 activities, Southwest Airlines' policies don't
14 apply.

15 That's your understanding, true?

16 A. Yes.

17 Q. You ran for Union president in 2013?

18 A. No.

19 Q. When did you run?

20 A. For president?

21 Q. Yes.

22 A. 2015.

23 Q. Oh, that is right. You ran for first or
24 second -- what office did you run for in 2013?

25 A. I didn't run for any office in 2013.

1 Q. When were you -- when were you running that you
2 were defeated and then put in the office?

3 A. The election of 2012.

4 Q. 2012.

5 So in 2012, what office were you running for?

6 A. First vice president.

7 Q. You were running for first vice president. And
8 were you elected?

9 A. No.

10 Q. And in fact, an entire another slate of -- you
11 were in one slate of candidates and there was
12 another slate of candidates, true?

13 A. Yes.

14 Q. And the other slate of candidates was elected?

15 A. Yes.

16 Q. And then a couple, what, two or three of those
17 were kicked out of their office?

18 A. Three were removed from their position.

19 Q. So three were removed from office.

20 Who removed them?

21 A. The executive board, the governing body of the
22 local union.

23 Q. The executive board of the union.

24 So the executive board removed the three people
25 that were elected and then two others resigned?

1 A. The two that resigned, resigned before the
2 removals of the other three.

3 Q. So in any event, those five are out and you get
4 put into what position?

5 A. The first vice president.

6 Q. And then you ended up going to president
7 because that position was vacated?

8 A. Once the president was removed, yes.

9 Q. Okay. And I'm sorry, I'm having trouble
10 hearing you.

11 A. Once the president was removed from office,
12 yes.

13 Q. Okay.

14 MR. PRYOR: Let's look at Exhibit 24.

15 And I will move for its admission.

16 THE COURT: Okay. 24. Any objection?
17 I have nothing on file for 24.

18 MR. PRYOR: Are you talking to me, your
19 Honor?

20 THE COURT: I'm asking if there is a --
21 was 24 on the list for today?

22 Let me ask them. I have no written
23 objection to 24.

24 So anything from Southwest or Union for
25 24?

1 MR. GREENFIELD: No, your Honor.

2 MR. McKEEBY: No objection.

3 THE COURT: Okay. 24 is in evidence. You
4 can publish.

5 (The referred-to document was admitted
6 into evidence as Plaintiff's Exhibit 24.)

7 BY MR. PRYOR:

8 Q. Let me show you Exhibit 24.

9 I'm going to start at the beginning of this
10 email string. It's the last page.

11 By the way, it looks like it's pretty easy to
12 see these on the screen, but if you ever need a hard
13 copy of a document, just ask me, I will bring it up
14 to you.

15 Some of these emails, it might be easier at
16 times, so feel free to ask.

17 So this is an email from Charlene Carter to
18 John Parrott.

19 Who is John Parrott?

20 A. He was the treasurer of the executive board and
21 the local union at that time.

22 Q. He was on your team, right?

23 A. Yes.

24 Q. And the subject matter is "COPE."

25 Tell us what COPE is.

1 A. COPE is Committee on Political Education.

2 Q. I'm sorry?

3 A. COPE is the Committee on Political Education.

4 Q. So it's the committee that spends union money
5 on political activities, true?

6 A. Yes.

7 Q. And Charlene Carter objected to her union dues
8 being used for those type of activities, true?

9 A. I don't know if she objected about her union
10 dues.

11 The deduction that is referenced in this email
12 was a voluntary deduction that she would have had to
13 sign up for.

14 Q. Okay.

15 A. It was separate from union dues.

16 Q. So she says to Mr. Parrott, "I" -- I think it
17 should say it -- "has come to my attention that in
18 my paycheck, there is a deduction coming out for
19 COPE, and I would like to stop this from being
20 deducted ASAP."

21 Do you see that?

22 A. Yes, sir.

23 Q. You were aware of her request, true?

24 A. When I received this email, yes.

25 Q. Okay. You became aware of her saying, "I don't

1 want to pay for these political activities," right?

2 A. Yes.

3 Q. Okay. And that is her right as a union member
4 to say she doesn't want to do that, true?

5 A. Yes.

6 Q. So do you respect the rights of your members?

7 A. Yes.

8 Q. Okay. Let's see your respect.

9 Then Mr. Parrott says -- he sends an email to
10 you and he says, "Ha. She has been supporting the
11 thing she despises this entire time."

12 Do you recall that?

13 A. I see it here. I don't recall it --

14 Q. You don't recall --

15 A. -- back then.

16 Q. -- the treasurer, one of your team members, is
17 belittling the request from a union member that
18 doesn't want to do this, and as a matter of fact,
19 he's belittling it even more so because you designed
20 her paycheck so that it wouldn't reveal she was
21 paying for these COPE activities and she did it for
22 years --

23 MR. McKEEBY: Objection, argumentative.

24 THE COURT: Sustained.

25 Please rephrase.

1 BY MR. PRYOR:

2 Q. Are you aware that her paycheck was designed to
3 avoid revealing to her that she was paying for these
4 political activities?

5 A. No, I don't have anything to do with how
6 Southwest Airlines lines up any payroll deductions.

7 Q. Okay. You swear the Union had nothing -- it's
8 your testimony, under oath, that the Union had
9 nothing to do with that?

10 A. I don't have any knowledge or part of how the
11 payroll deductions are set up between the Union and
12 Southwest Airlines.

13 Q. Forget any knowledge.

14 Do you have any knowledge that there was an
15 arrangement with the Union to conceal from
16 Ms. Carter how her funds were being used?

17 A. No, absolutely not.

18 Q. You have no knowledge of that?

19 A. No.

20 Q. And then up above, the next email says -- by
21 the way, did you respond to this email and say,
22 "Hey, she's entitled to do that. You shouldn't be
23 making fun of her and being happy that she's been
24 paying for something she despises."

25 Did you say that?

1 A. No.

2 Q. Why not?

3 A. I had no idea she'd been volunteering to COPE
4 until this, and she was probably paying in more than
5 the money she was getting back after she had opted
6 out.

7 And it was an informational email that was sent
8 to four of us, and I didn't comment at all on it.

9 Q. Ma'am, I didn't ask you about Ms. Carter's
10 request.

11 I asked you about Mr. Parrott's email to you
12 belittling Ms. Carter and her request and being
13 thrilled that she's been supporting things she
14 despises this entire time.

15 She's exercising her union right.

16 This is what you get.

17 As Union president, did you tell Mr. Parrott,
18 Hey, that is inappropriate?

19 MR. McKEEBY: Objection. Again, this is
20 argument, not a question.

21 THE COURT: I will allow that one.

22 THE WITNESS: No.

23 BY MR. PRYOR:

24 Q. Why not?

25 A. I just didn't comment on it.

1 Q. So if somebody does something clearly
2 inappropriate on your leadership team and you don't
3 comment, you don't comment because you agree?

4 A. No.

5 Q. Oh. Then why didn't you comment?

6 A. I just chose not to comment at all on the
7 thread.

8 Q. Well, let's look at the next one.

9 Then there is an email from Cuyler Thompson.

10 Who is Cuyler Thompson?

11 A. He was the recording secretary for the Union at
12 the time.

13 Q. And he sends you an email as well, correct?

14 A. It was an email thread going to everyone. It
15 wasn't just sent to me directly.

16 Q. Did he send it to you?

17 A. He sent it to all of us.

18 Q. Did he send it to you?

19 A. Yes, I was one of the people he sent it to.

20 Q. And so he's very comfortable sending belittling
21 comments about a union member to the president. He
22 said, "This just made my morning." True?

23 A. Yes.

24 Q. And I'm sure you responded to this one and
25 said, Hey, come on, that is not the way we treat our

1 members.

2 Is that what you said?

3 A. No.

4 Q. As a matter of fact, your only response was to
5 talk about your Queso dip, right?

6 A. Yes.

7 Q. But it doesn't end there, does it?

8 Can you tell us who Brett Nevarez is?

9 A. He was the second vice-president of our union.

10 Q. He's also an officer of the union, and he
11 responds, "Yum to the Queso dip." But then he says,
12 "So typical. Batshit dipshit cannot read her
13 paycheck."

14 He's referring to Ms. Carter, isn't he?

15 A. Yes.

16 Q. And did you respond to this?

17 A. No.

18 Q. Is that appropriate?

19 A. No.

20 Q. It is inappropriate. You are willing to come
21 in to court today and say it was inappropriate.

22 But back in 2013, when there wasn't a jury in
23 the room, did you say it was inappropriate?

24 A. No.

25 Q. Why not?

1 A. I just chose not to comment at all on the
2 communication.

3 Q. You commented, you talked about your Queso dip.
4 You chose not to comment on inappropriate behavior
5 by your officers because you routinely engaged in it
6 as well?

7 A. That is not true.

8 Q. And then you received another email. This was
9 from Mr. Gage.

10 So we are now covering all your officers,
11 aren't we?

12 He's another officer, right?

13 A. Yes.

14 Q. So we got the whole team.

15 Now the Union and the whole leadership team
16 says, "I wish you could give her a list of all of
17 the campaigns she has donated to in the last 17
18 years," exclamation point. "Her head would
19 explode."

20 Is that appropriate?

21 A. No.

22 Q. And what was your response to that?

23 A. I didn't have one.

24 Q. You certainly knew who Charlene Carter was in
25 2013, didn't you?

1 A. Yes.

2 Q. And you knew she objected to your team being
3 put in place in place of the elected leaders, true?

4 A. Yes.

5 Q. And you certainly knew she opposed the
6 political activities that your union was involved in
7 and didn't want her dues going there, true?

8 A. Yes.

9 MR. PRYOR: I can't close the big one.

10 MR. GREENFIELD: Counsel, did you say 146?

11 MR. PRYOR: 146. Sorry.

12 MR. GREENFIELD: That's all right.

13 MR. PRYOR: Let me make sure it is the
14 right one. It is.

15 We move for the admission of Exhibit 146.

16 THE COURT: Same objections as earlier?

17 MR. McKEEBY: Yes, your Honor.

18 THE COURT: So I am admitting 146, but I
19 will tell the jury, there is a batch of exhibits
20 that I'm admitting, but they're only as to one
21 defendant, not the other.

22 So this is one of those exhibits. So it
23 is admissible and relevant only as to the Union not
24 as to Southwest Airlines. So please consider it in
25 that regard. I will make that note on the exhibit

1 list that you will also have back in the jury room.

2 So 146 is admitted as to the Union.

3 (The referred-to document was admitted
4 into evidence as Plaintiff's Exhibit 146.)

5 MR. PRYOR: Your Honor, may I approach?

6 (Thereupon, the following proceedings were
7 had at sidebar:)

8 MR. PRYOR: First of all, let me say
9 making a record on these sidebars is costing me time
10 to make a record. I understand your rulings.

11 THE COURT: So do so briefly. You just
12 cost yourself five seconds.

13 MR. PRYOR: We object to the Court's
14 limiting instruction. It's relevant to our claims
15 against Southwest.

16 THE COURT: Understood. I will give you a
17 running objection on that for all of the buckets at
18 once. I'm including with the limiting instruction
19 as to the Union only.

20 MR. McKEEBY: Your Honor, not to quibble,
21 but I will, when you give the limiting instruction,
22 I think you should say "relevant to the claims
23 against the Union, not relevant to the claims
24 against Southwest."

25 I think just to say "relevant to

1 Southwest" doesn't adequately communicate.

2 THE COURT: I will clean that up.

3 MR. PRYOR: I appreciate the running
4 objection.

5 THE COURT: You bet.

6 (Thereupon, the sidebar was concluded and
7 the following proceedings were held in open
8 court:)

9 THE COURT: Okay. Just to clean up my
10 wording. This exhibit and the ones that are like it
11 later on that I'll give this disclaimer on are
12 relevant to the claims against the Union and are not
13 relevant to the claims against Southwest.

14 With that, 146 is in evidence with the
15 limitation that I just gave you.

16 You can proceed.

17 MR. PRYOR: Okay. Let's go to the
18 beginning of this email string.

19 And there it is.

20 BY MR. PRYOR:

21 Q. Okay. This is an email from you to Sonya
22 Lacore, true?

23 A. Yes.

24 Q. And it's back in January of 2014. True?

25 A. Yes.

1 Q. Who is Sonya Lacore?

2 A. At the time she was a director in inflight for
3 Southwest Airlines.

4 Q. Is that pretty high up at Southwest?

5 A. It is below -- yes, it is below vice president.

6 Q. Okay. But it is high up in management. She's
7 not a low-level employee?

8 A. Correct.

9 Q. Okay.

10 And what is "inflight"?

11 A. "Inflight" is the term that Southwest Airlines
12 uses to describe the department that oversees the
13 flight attendant work group.

14 Q. The what?

15 A. The flight attendant work group.

16 Q. Okay.

17 And that is 15,000 or more employees?

18 A. Yes.

19 Q. And you send an email to Ms. Lacore, true?

20 A. Yes.

21 Q. And it says, "Heads up. We have a movement of
22 objectors, those that resign their union membership
23 and receive a small reimbursement of their dues, and
24 the board agreed that a non-member of 556 cannot
25 represent TWU 556 on any 556 committee."

1 What you are talking about there is there are
2 joint committees between Southwest Airlines and the
3 Union, and any objectors to the Union you want off
4 the committees?

5 A. Yes, if it is a joint union committee.

6 Q. I'm sorry?

7 A. Yes, if it is a joint union committee.

8 Q. Objectors are also entitled to be represented
9 by the union, aren't they, by law?

10 A. Yes.

11 Q. And were you aware of whether or not this was
12 even a legal request you were making?

13 Was it legal to kick the objectors off the
14 committees, if you know?

15 A. Yes, based on our understanding of RTW
16 international constitution and our bylaws that state
17 someone who has opted out of the union cannot attend
18 a membership meeting, cannot vote on any union
19 matters, and completely lose their voice to
20 participate in any union activity.

21 So under that, you cannot then serve on a union
22 committee if you cannot participate in union
23 activities.

24 Q. I understand you're telling me your
25 International Union rules, and I appreciate that

1 very much.

2 That doesn't happen, however, to be the law of
3 the land.

4 I'm asking you, legally --

5 MR. GREENFIELD: Objection, your Honor.

6 THE COURT: So I'll put a pin in this,
7 that all of the law will come from me at the end of
8 the case.

9 So if a lawyer ever tells you, that is not
10 the law, then wait to hear the law from me.

11 With that, you can proceed.

12 BY MR. PRYOR:

13 Q. Well, let me ask that question that your
14 counsel wants to ask.

15 So do you think that the International Union is
16 the law of the United States of America?

17 A. No.

18 Q. Okay. Let me ask you about the law of the
19 United States of America.

20 Did you have any understanding as to whether or
21 not what you were requesting was even legal?

22 A. I'm not an attorney and I'm not allowed to talk
23 about anything that is attorney-client privilege.

24 Q. So you did speak to an attorney about whether
25 or not this was legal, but you just aren't going to

1 tell us what he or she said?

2 A. Yes.

3 Q. Okay. And did you proceed forward knowing that
4 in fact what you were requesting was illegal?

5 A. No.

6 MR. GREENFIELD: Same objection, your
7 Honor.

8 BY MR. PRYOR:

9 Q. So you had advice --

10 MR. PRYOR: I'm sorry, what was the
11 objection?

12 THE COURT: The objection was on framing a
13 legal conclusion.

14 So I will allow you to ask that question.

15 BY MR. PRYOR:

16 Q. Tell me the name of the attorney you spoke to.

17 A. Ed Cloutman.

18 Q. This gentleman right over here?

19 A. Yes, sir.

20 Q. And the Union attorney told you this was a
21 legal request?

22 MR. GREENFIELD: Objection, your Honor.
23 Ms. Stone has clearly testified that there is
24 attorney-client privilege existing.

25 THE COURT: Sustained.

1 BY MR. PRYOR:

2 Q. Then it says, "The board agreed."

3 When you say "the board" in this email, who is
4 the board?

5 A. The executive board is the governing body of
6 the Union, of Local 556.

7 Q. So these people that were ridiculing Ms. Carter
8 in the emails that we looked at first, that is who
9 they are?

10 A. They are some members of the executive board.

11 Q. Certainly that group.

12 Who are we missing?

13 A. The executive board had 17 flight attendants on
14 it.

15 Q. Oh, I don't want all of them.

16 So all 17 of them agreed?

17 A. Yes.

18 Q. And then it says, "Kent Hand on CISM, and we
19 instructed Eileen to let him know he couldn't serve.
20 He's trying to cause her problems."

21 And the problems he was causing her is he
22 didn't want to resign from the committee.

23 Is that the problem?

24 A. He was very aggressive when she spoke with him,
25 and she was very upset after the conversation and

1 very rattled.

2 Q. So you send this to -- by the way, you say,
3 "Sorry to bring more Union drama your way."

4 What is the "more" referring to?

5 A. This was six months after we had just had what
6 I think anyone would call Union drama when two
7 officers resigned and the other three were removed
8 from their positions. Our Union had been in
9 upheaval in 2013.

10 And it was widely known with Southwest and
11 other unions that we had had a very dramatic year
12 with the Union, and it was right on the heels of
13 that.

14 Q. And not only that, it led to a movement of
15 objectors, people who were in the union, that were
16 so upset that they resigned. They still paid dues,
17 they are still entitled to be represented, but they
18 resigned?

19 A. Yes.

20 Q. And then let's look at Ms. Lacore's response.

21 She says, "I'm sorry you are having to deal
22 with it. Let me know if there is anything I can do
23 to assist."

24 That is part of what she said, right?

25 A. Yes.

1 Q. And why did you send this to her to begin with?
2 You thought Southwest should be the one to take
3 against a union objector?

4 A. No, absolutely not.

5 All of the joint committees between Southwest
6 and the Union have a liaison from both the Southwest
7 side and the Union side that will coordinate with
8 the committee, that work on budgets, who is going to
9 pay what.

10 And at the time, Sonya Lacore was the liaison
11 for Southwest for the critical incident stress
12 management committee.

13 Q. So you weren't asking Southwest Airlines to
14 remove these people from the committee, correct?
15 That was something the union would do?

16 A. Correct. I was just informing them that he
17 could no longer serve on that union committee
18 because he was a non-member.

19 Q. And then you respond to her and say, when she
20 says, "What can Southwest Airlines do to assist
21 you?"

22 You then say, "You may want to leave your
23 directors" -- I assume that means let -- "let your
24 directors and base managers know as well that any
25 non-member of TWU may not be a representative of

1 Local 556. This would apply to meetings as well."

2 You are not asking her to make sure they are
3 not on there?

4 A. No.

5 Q. Then what was the point of telling her that?

6 A. Because we had discussed that if -- a flight
7 attendant always has the right, we allow them to
8 take in any representative that they would like, if
9 Southwest Airlines members and management are
10 calling them in for any investigation or meeting.

11 However, if it is not someone that is an actual
12 union representative that has been trained to be a
13 union representative to represent someone in a
14 meeting, then they are just simply there as support
15 and not an actual representative, an agent of the
16 union.

17 And, again, someone that had opted out of the
18 union cannot serve in a union capacity to officially
19 represent someone in a meeting with Southwest
20 Airlines.

21 Q. So you know that objectors had to file a
22 lawsuit for their rights to be protected, to be
23 represented on joint committees?

24 MR. GREENFIELD: Objection, your Honor.
25 Lack of foundation.

1 THE COURT: Sustained.

2 BY MR. PRYOR:

3 Q. Do you know?

4 I'm trying to lay the foundation.

5 He doesn't have the answer, ma'am. I'm asking
6 for your testimony.

7 Are you aware? All you have to do is tell the
8 truth.

9 A. I am aware that there was a lawsuit filed, yes.

10 Q. What was so difficult and why did you have to
11 look over here to answer my question?

12 A. Because, sir, he raised an objection. Judge
13 Starr said "sustained," and I was just for a second
14 trying to remember if that meant I needed to answer.
15 This is my first time testifying in court, so it
16 just took me a second to process that.

17 Q. I understand that process.

18 I'm just wondering why you needed to look at
19 the Union table to process that.

20 A. I looked at the Union table because he raised
21 an objection and stood up.

22 Q. Are you being represented by counsel today?

23 A. Yes.

24 Q. So do you know what happened with that lawsuit
25 that had to be filed because of the action you took

1 with Southwest Airlines?

2 MR. GREENFIELD: Objection, your Honor.

3 Anything that stems from this discussion
4 is related to --

5 THE COURT: Sidebar if you want to phrase
6 it.

7 (Thereupon, the following proceedings were
8 had at sidebar:)

9 MR. GREENFIELD: Mr. Cloutman is going to
10 join us for the conversation. He was a part of
11 this.

12 THE COURT: Understood.

13 MR. CLOUTMAN: May I speak?

14 THE COURT: Sure. Yeah, you may speak.

15 MR. CLOUTMAN: There was a lawsuit filed,
16 and it was the subject of a confidential settlement.
17 We can't get into the terms of who shot John at all
18 about the terms of the settlement. I think counsel
19 knows that.

20 MR. PRYOR: First of all, I don't know
21 that, but I accept it --

22 MR. CLOUTMAN: Now you do.

23 MR. PRYOR: I was going to say, I accept
24 your representation, but I don't accept that it
25 overrules evidence in a federal court proceeding.

1 That is not confidential from this proceeding.

2 MR. CLOUTMAN: Yes, it is. It absolutely
3 is. It's been filed in federal court and approved
4 by a federal judge.

5 THE COURT: Well, I'm not going to bust it
6 up, but I will let you ask if you know the outcome,
7 right? And if her answer is there was a settlement
8 that was confidential and remains confidential, it
9 is what it is.

10 MR. PRYOR: I will just do that.

11 MR. GREENFIELD: Can we instruct the
12 witness on that?

13 THE COURT: I will instruct the witness --
14 well, you ask the question, and I will say that the
15 witness can answer this question.

16 MR. PRYOR: So I ask broad-based, and then
17 you will limit with your instruction?

18 THE COURT: Correct.

19 (Thereupon, the sidebar was concluded and
20 the following proceedings were held in open
21 court:)

22 THE COURT: Okay. You can ask your next
23 question, then I will give an instruction to the
24 witness, and then you can answer.

25 How about that?

1 BY MR. PRYOR:

2 Q. Ma'am, isn't it true that you do know what
3 happened, what the outcome of that lawsuit was, and
4 the illegality of your actions? True?

5 THE COURT: So I will tell the witness
6 that the witness can answer if you know of a
7 settlement but you cannot reveal the contents of
8 that settlement.

9 THE WITNESS: All I know is that there was
10 a settlement done through the insurance company. I
11 don't know any details of what that looked like. I
12 wasn't a part of that.

13 MR. PRYOR: Okay. Thank you.

14 Exhibit 25. We move for its admission.

15 THE COURT: 25. I see the objections from
16 this morning.

17 Does the Union need a sidebar? I know
18 what I'm going to do with 25.

19 MR. GREENFIELD: I'm pulling the document
20 up right now, if I may have a moment.

21 THE COURT: You bet.

22 MR. GREENFIELD: If we could have a
23 sidebar, your Honor.

24 THE COURT: You may.

25 (Thereupon, the following proceedings were

1 had at sidebar:)

2 MR. GREENFIELD: I would just like to know
3 what your Honor is planning on doing before we --

4 THE COURT: I think a couple of hearsay
5 exceptions apply, so I plan on overruling the
6 hearsay objection.

7 MR. GREENFIELD: Thank you.

8 (Thereupon, the sidebar was concluded and
9 the following proceedings were held in open
10 court:)

11 THE COURT: All right. I'm admitting 25
12 into evidence over the objection.

13 You can publish it to the jury.

14 (The referred-to document was admitted
15 into evidence as Plaintiff's Exhibit 25.)

16 BY MR. PRYOR:

17 Q. Let's look at Exhibit 25, the second page.

18 Do you want to see the first page before the
19 second page so you can see what this --

20 Do you recognize this or do you want to see the
21 first page?

22 A. I don't have anything on my screen yet.

23 Q. I'm sorry?

24 A. I don't have anything on my screen yet.

25 Q. There's nothing on your screen?

1 MR. PRYOR: Let's get 25 on there.

2 Can you hand me Exhibit 25?

3 THE COURT: It is up now.

4 BY MR. PRYOR:

5 Q. Okay. There is the first page.

6 Let me show you -- let's go to the second page.

7 And this -- did you want a copy of this?

8 A. I can see it now, thank you.

9 Q. Okay. So can you tell me what this second page
10 is?

11 A. It looks like a post that Ms. Carter made
12 somewhere.

13 Q. That is right. It is a post that Ms. Carter
14 made.

15 And she says, among other things, "I am so mad
16 at the past really. I am just so tired of the same
17 old stuff from this union being thought about with
18 Thom McDaniel."

19 Then goes on to say, "And that is, I am a
20 non-member objector. I would love to start the card
21 drive to get rid of TWU."

22 So Ms. Carter has made a post somewhere that
23 she's upset with her union and she wants a card
24 drive to get rid of TWU, right?

25 A. Yes.

1 Q. And "getting rid of TWU," another phrase for
2 that is decertification, right?

3 A. Yes.

4 Q. By the way, are you aware that one of your
5 officers previously threatened Ms. Carter when she
6 said there should be decertification?

7 A. Threatened? No.

8 Q. Yes.

9 Tell her that she would be kicked out of the
10 union and lose her job?

11 A. No.

12 Q. You are not aware that Cuyler Thompson did
13 that?

14 A. No.

15 Q. All right.

16 Do you know how this post of Ms. Carter's ends
17 up being in an email from Brian to you?

18 MR. PRYOR: Next page.

19 BY MR. PRYOR:

20 Q. This is from Brian to -- is that to you or is
21 it to Brett Nevarez?

22 MR. PRYOR: Do we have an unredacted
23 version?

24 BY MR. PRYOR:

25 Q. Eventually, in any event, it ends finding its

1 way to you, right?

2 A. It went to -- it looks like it was forwarded to
3 me along with four other people.

4 Q. Okay. Well, when Southwest or the Union
5 produced this, they blacked out these things.

6 I don't know who the "to" is. Do you?

7 A. The "to" on my document says "Audrey Stone" --
8 at the very top --

9 Q. I'm talking about below where it is blacked
10 out.

11 Is that some kind of state secret as well?

12 A. I don't know. I don't know who it was sent out
13 to.

14 Q. In any event, you received this.
15 And who is Brian?

16 A. A flight attendant at Southwest.

17 Q. Is that it?

18 Is that all you can tell us about him?

19 Tell us about Mr. Talburt, ma'am.

20 A. He's a long-time very senior flight attendant
21 at Southwest Airlines.

22 Q. Okay.

23 How about his union activity?

24 You didn't mention that, so I will ask.

25 A. He was very supportive of our administration

1 when we were in office.

2 Q. Very supportive. Wouldn't you put that in all
3 caps?

4 That is an understatement, right?

5 A. I don't know that it is an understatement. I
6 just -- he was -- he was supportive.

7 Q. Hmm.

8 So he was just supportive.

9 Did you have a core team?

10 A. Yes.

11 Q. And you had a core team that had a secret
12 Facebook page, correct?

13 A. A private Facebook page.

14 Q. The actual setting is secret, isn't it, ma'am?

15 There is public, private and secret. You are
16 telling me it wasn't secret?

17 A. I didn't set it up, and I'm not Facebook savvy.
18 I did not know it went private and secret. I just
19 knew that it was a --

20 Q. But wait. No, no. You just told us under oath
21 it was private. Now you are telling us you don't
22 know if it was private or not?

23 A. No, no, no. I said I knew it was private. I
24 don't understand the different settings between
25 private and secret and what that looks like in

1 Facebook.

2 Q. But it was your understanding that no one could
3 get on that Facebook page except your core team
4 members?

5 A. It was only people that were -- that were on --
6 would have been -- had to have been added by an
7 admin.

8 Q. That's right.

9 And it was during your campaign and it was your
10 inner circle, true?

11 A. No. There were actually flight attendants on
12 there that I did not know well at all.

13 Q. That weren't supporting you?

14 A. There were flight attendants that had personal
15 relationships with other people on my team that may
16 have been supporting them, but again, weren't people
17 that -- it wasn't just my inner circle. There were
18 people I did not know well.

19 Q. Mr. Talburt certainly knew you, right? You
20 knew him.

21 A. Yes.

22 Q. And you also appointed him to the CAN
23 committee, right?

24 A. Yes.

25 Q. And that's the committee that is supposed to

1 keep flight attendants informed about the efforts of
2 the union in the collective bargaining process?

3 A. Yes.

4 Q. That was an important position, wasn't it?
5 Is it unimportant?

6 A. No, it was an important role.

7 Q. Is there some reason you are hesitant to praise
8 all of the work that this very supportive member of
9 your core team was involved in?

10 A. No.

11 Q. Okay. Well, then, why can't you tell us, he's
12 a great guy, he supported me?

13 A. I -- I already stated that he was a big
14 supporter throughout my administration.

15 Q. So Mr. Talburt sends you this post of
16 Ms. Carter's.

17 Do you know how he got it?

18 A. I don't.

19 Q. You don't know where it came from?

20 A. No.

21 Q. And then Mr. Nevarez, I think -- what did you
22 say -- he was second vice president at the Union?

23 A. Yes.

24 Q. He sends an email to you, and to others,
25 including Mr. Parrott, "Cuyler's favorite is

1 threatening to decert now that she is not a member
2 and cannot be charged. I'm contacting legal counsel
3 and will keep you advised."

4 What did you understand that to mean?

5 A. I understood it to mean that he was going to be
6 checking with legal counsel on if there were any
7 ramifications regarding someone that had already
8 opted out that was trying to decert, because under
9 our TW international constitution, decertification,
10 you can have charges brought against you within the
11 Union for attempting to decertify.

12 But when you are not a member, there was a
13 question of what did that even mean and, you know,
14 could you bring even charges against somebody that
15 was a non-member.

16 Q. Well, let's not forget the first sentence. And
17 I will get to the second one.

18 "Cuyler's favorite is threatening to decert now
19 that she is not a member and cannot be charged."

20 Cuyler Thompson, the person that I've told
21 you -- you say you don't know -- threatened
22 Ms. Carter when she was a union member, and her
23 favorite -- I'm still over here, ma'am.

24 MR. PRYOR: Do you need something?

25 MR. GREENFIELD: Yes. I would like to

1 make an objection. He keeps testifying about facts
2 not in evidence about this threat.

3 THE COURT: I will sustain that.

4 BY MR. PRYOR:

5 Q. So, Mr. Cuyler -- or Mr. Nevarez is referencing
6 that Mr. Cuyler's favorite thing is threatening
7 members that mention decertification, but now that
8 Ms. Carter is not a member, she cannot be charged.

9 Isn't that what is being said there?

10 A. No. This email does not say Cuyler is
11 threatening.

12 Q. What is it talking about then?

13 A. It sounds like Cuyler's favorite, referring to
14 Ms. Carter, that she's threatening to decert now.

15 Q. And she's not a member and cannot be charged.

16 So the threatening that cannot be charged
17 doesn't then fit, does it? If it is talking about
18 her favorite.

19 A. No. That she's Cuyler's favorite.

20 Q. Why is it mentioning -- oh, I see.

21 You are saying that Ms. Carter is Cuyler's
22 favorite.

23 A. Yes. There is nothing in here about Cuyler
24 threatening anyone.

25 Q. Okay. So they were close friends?

1 A. No.

2 Q. Wait. It just says that she's Cuyler's
3 favorite.

4 A. I believe he was being sarcastic.

5 Q. Oh, okay.

6 And then it says, "I'm contacting legal
7 counsel."

8 So you are contacting legal counsel because
9 Ms. Carter has posted something that is related to
10 her union stating that she's fed up with them and
11 you need a better union, let's just rid of this one.

12 And so you are seeking legal counsel and what
13 you can do against her, in February of 2014, right?

14 A. I wasn't.

15 Q. I'm sorry?

16 A. I said I wasn't. Brett said he was going to.

17 Q. Oh, I'm sorry. Of course. You told Brett
18 Nevarez to stop.

19 You got an email saying that, right?

20 A. No.

21 Q. Oh, I thought you -- okay. Did you disagree
22 with him?

23 A. No. I thought contacting legal counsel for
24 advice was the appropriate thing to do.

25 Q. Okay. What action was taken?

1 A. There was no action taken.

2 Q. You sure wanted to, though, right?

3 A. No.

4 Q. You didn't?

5 Is that what you are saying, you didn't want to
6 take action against her?

7 Then why were you seeking legal counsel to take
8 action against her? Those don't make sense.

9 A. Any time any comments about decertification
10 came up, we sought the guidance of TW international
11 and legal counsel as leaders of the union.

12 Q. I just want to make sure I understand.

13 You didn't want to take legal action against
14 her, and when Mr. Nevarez suggested, let's check
15 with legal counsel and see what we can do, you
16 didn't agree with that?

17 A. That is not what I said. I said I thought it
18 was a good idea for him to seek legal counsel's
19 advice on what, if anything, needed to be done.

20 Q. So you wanted to do something?

21 A. No. I wanted to see if there was something we
22 should be doing as leaders of the union.

23 Q. Something you might be required to do, is that
24 what you were worried about?

25 A. Yes. Under the constitution and our bylaws,

1 there is a lot of things leaders of the Union are
2 required to do.

3 Q. Against an objector that thinks the Union
4 should be decertified, there is a lot of things in
5 the constitution?

6 A. No. In general, as union leaders, and there
7 are responsibilities when it comes to something
8 regarding decertification. Our TWU constitution
9 speaks to it.

10 MR. PRYOR: Let's look at Exhibit 26.

11 We move for its admission.

12 Don't display it yet.

13 MR. McKEEBY: No objection from Southwest.

14 THE COURT: Pending Union's written
15 objection, I'm happy to rule, unless you want to a
16 sidebar.

17 MR. GREENFIELD: Very briefly.

18 (Thereupon, the following proceedings were
19 had at sidebar:)

20 MR. GREENFIELD: I just didn't get what
21 your basis for the hearsay objection was on the
22 first one, and I wanted to make sure I preserved the
23 record as to what -- I presume you are going to have
24 an exception --

25 THE COURT: All I have to do is overrule

1 it. I don't have to say which ground.

2 But I think there is a hearsay exception
3 that applies. I can't remember which one, that
4 Carter argued in its status report, but I thought
5 that exception applied.

6 Relevance, I will say it's marginal
7 relevance at best. If you want to use it, you may
8 burn your time. But you may understand it better
9 than I do.

10 So I'll overrule the objection.

11 MR. PRYOR: I'm worried about your list of
12 time now. I thought it was relevant.

13 (Thereupon, the sidebar was concluded and
14 the following proceedings were held in open
15 court:)

16 THE COURT: Okay. I'm admitting 26 over
17 objection.

18 You can publish to the jury.

19 (The referred-to document was admitted
20 into evidence as Plaintiff's Exhibit 26.)

21 BY MR. PRYOR:

22 Q. All right. Let's look at Exhibit 26.

23 And this is an email from Brian Talburt, the --
24 I'm not sure how to characterize him now.

25 A good supporter of yours, right?

1 A. Yes.

2 Q. And he seems to email you stuff.

3 Is that part of his role, to gather information
4 and send it to you?

5 A. No. I received emails from a lot of members
6 every single day.

7 Q. Just like this one, right?

8 A. Yes.

9 Q. Okay. So Mr. Talburt is saying that "While it
10 has nothing to with the topic at hand, it's an
11 illustration of casual behind-the-scenes
12 conversations we have and particularly regarding
13 social media.

14 "I, along with Mike and Sonya, had a meeting
15 last summer with VDV to discuss social media as a
16 tool."

17 Who is Mike?

18 A. I am assuming, based on the bottom of the
19 original message, Mike Hafner.

20 There's numerous Mikes at Southwest, but since
21 Mike Hafner's name is below, I'm assuming that is
22 who he's referring to.

23 And at that time he would have been, if it is
24 Mike Hafner, the vice president of inflight for
25 Southwest.

1 Q. By the way, you make a really good point.

2 There is an original message from Mike Hafner,
3 and he's the head of inflight at Southwest Airlines,
4 right?

5 A. Yes.

6 Q. Where is his email?

7 A. I don't know.

8 Q. Have you seen it?

9 A. No.

10 Q. It's not here, is it?

11 A. It's not displayed on the screen that I'm
12 looking at, no.

13 Q. We are more than happy to allow that be
14 produced at any time.

15 MR. GREENFIELD: Objection, your Honor.

16 This is their own exhibit. There is no
17 evidence that something wasn't produced, and I don't
18 appreciate that insinuation to the jury.

19 THE COURT: I will strike that.

20 You can proceed.

21 BY MR. PRYOR:

22 Q. And Mike Hafner, and then Sonya -- is that
23 again Sonya Lacore?

24 A. I would assume so, yes.

25 Q. I'm sorry?

1 A. I would assume so, yes.

2 Q. Okay. Were there a lot of other Sonyas that
3 you dealt with at Southwest Airlines in management?

4 A. In management, no.

5 Q. And who is VDV?

6 A. I'm not certain.

7 Q. Okay. And if it turns out to be someone that
8 everyone recognizes as the COO of Southwest
9 Airlines, you are telling us, as Union president in
10 2014, that would be a shock to you?

11 A. Yes.

12 Q. Okay.

13 A. Not that VDV --

14 Q. That is fine. It is shocking to you. We will
15 recall.

16 Are you changing that?

17 A. No, I wasn't finished.

18 He's referencing a meeting that took place.

19 I'm not certain I was even president yet because
20 he's referencing a meeting that took place the
21 previous summer, which was around the time the
22 changeover was happening in our union.

23 Q. That wasn't my question.

24 My question was who is VDV, and you said you
25 don't know.

1 A. I'm not sure.

2 Q. Oh.

3 A. I didn't have a conversation. It could have
4 been Mike Van de Ven. I don't know.

5 Q. What is that name again?

6 A. Mike Van de Ven.

7 Q. Mike Van de Ven?

8 And what was his position at Southwest
9 Airlines?

10 THE COURT: We've got to keep more
11 separation between questions and answers to keep a
12 clean record.

13 You can answer, if you know.

14 THE WITNESS: At the time he was one of
15 the executive officers. I think he was the chief
16 operating officer.

17 BY MR. PRYOR:

18 Q. Okay. When you told me you were not going to
19 be evasive at the beginning of our conversation, I
20 asked you about who VDV is, and you said you are not
21 sure.

22 A. I'm not 100 percent sure. I am making
23 assumptions because I wasn't a part of the meeting
24 and I did not have a conversation with Brian about
25 this meeting.

1 Q. There must be lots of other VDV's, right, just
2 like there must be a lot of other Sonyas.

3 You don't know who he's talking about. You
4 can't be sure. Right?

5 A. I'm assuming.

6 Q. Well, you are assuming after I forced you to.
7 You wouldn't assume it before, would you?

8 Are you being evasive?

9 A. No.

10 MR. PRYOR: Let's look at exhibit --

11 BY MR. PRYOR:

12 Q. By the way, why are you being -- well, why are
13 you reluctant to say that Brian Talburt is having
14 behind-the-scenes conversations with senior
15 management of Southwest Airlines about using social
16 media as a tool?

17 Why would you be concerned about that?

18 A. You asked me about knowing about it, and I was
19 trying to explain that I did not know about this
20 meeting and I wasn't a part of it and I didn't
21 participate in it, so I don't have intimate
22 knowledge about this.

23 Q. Okay.

24 And it's your testimony, under oath, and your
25 credibility can be viewed in this context, that you

1 weren't trying to be evasive about knowing who VDV
2 is, true?

3 A. Yes. I was not trying to be evasive.

4 Q. All right.

5 MR. PRYOR: Let's look at Exhibit 27.

6 And we move for its admission.

7 THE COURT: I have Union objections from
8 this morning.

9 Anything from Southwest?

10 MR. McKEEBY: No objection from Southwest.

11 THE COURT: I know my ruling.

12 Do you want a sidebar?

13 MR. GREENFIELD: No, your Honor.

14 THE COURT: I will overrule on two hearsay
15 exception grounds and admit it into evidence.

16 You can publish 27.

17 (The referred-to document was admitted
18 into evidence as Plaintiff's Exhibit 27.)

19 BY MR. PRYOR:

20 Q. Ma'am, do you want a hard copy of this email
21 string?

22 It is several pages long.

23 Do you recognize it?

24 A. Yes.

25 Q. Okay.

1 A. What is up here?

2 Q. Let's go to the beginning of this email.

3 And it's forwarding a very long dissertation by
4 someone, apparently Mike Casper -- oh, yes, it is
5 Mike Casper -- with a whole host of complaints about
6 Local 556.

7 Do you see that?

8 I'm happy to read them if you want me to read
9 all of his complaints.

10 Okay. I will try a few.

11 "Hold the executive board and the rest of the
12 residents of our union accountable. A resounding no
13 vote is an acceptable thing.

14 "11 of those 15 positions, the incumbents were
15 not reelected by a very wide margin. It wasn't even
16 close. Many of these incumbents were entrenched for
17 years and years."

18 It goes on.

19 "The new executive board went about their way
20 and assumed their positions with high hopes and then
21 they were kicked out."

22 Do you want me to read more, or do you accept
23 that Mr. Casper was writing and complaining about
24 Local 556?

25 Would that be accurate?

1 A. Yes.

2 Q. Okay. That's union activity, right?

3 A. He's expressing his opinion about union
4 activity.

5 Q. No, no. Him expressing his opinion is union
6 activity, true?

7 A. I think so.

8 Q. You think so.

9 As union president, someone is expressing their
10 opinion about the union to another union member, and
11 you think so, you don't know so, that that is
12 protected union activity, right?

13 A. I guess I'm stuck on activity and being
14 actually union activity taking action, and
15 conversations between members, expressing their
16 views about a union, yes, that would be --

17 Q. Well, if we are talking about being stuck, I'm
18 stuck on a union president that isn't willing to say
19 that a union member has the right to object to her
20 union and it be union activity.

21 A. Yes.

22 Q. You said, "I think so."

23 MR. PRYOR: All right. So let's go to --
24 it is page 98.

25 MR. GREENFIELD: Page 98? Okay. I

1 thought we were talking about another exhibit. I'm
2 sorry.

3 MR. PRYOR: We are on that page.

4 BY MR. PRYOR:

5 Q. Okay. So this is from Tina. And who is Tina?

6 A. Tina Coffee was a board member at that time.

7 Q. How were you able to recognize Tina and tell us
8 who Tina was?

9 There's got to be other Tinas there.

10 Are you sure it's the right Tina? You weren't
11 sure about VDV.

12 A. The previous screen had her initials on it and
13 she was a board member, so I worked very closely
14 with her.

15 Q. So a board member is forwarding this to
16 someone. It says it is to -- do you see on page 99?

17 It might be better if you had a copy.

18 MR. PRYOR: Can I approach the witness,
19 your Honor?

20 THE COURT: You may.

21 MR. McKEEBY: Thank you.

22 BY MR. PRYOR:

23 Q. Where it says "to" -- oh, there it is right
24 there.

25 Who is it being forwarded to?

1 A. I'm not sure.

2 Q. Okay.

3 THE COURT: We can't hear you if you are
4 not at a mic.

5 BY MR. PRYOR:

6 Q. Do you know why the name of who that was
7 forwarded to is blacked out?

8 A. No.

9 Q. All right. Let's go back to, then your board
10 member then sends it to Brian Talburt.

11 Is that right?

12 A. No.

13 Q. Mr. Nevarez sends it?

14 A. It looks like it was a Rocky Mountain that sent
15 it to Mr. Talburt, if I'm reading it correctly.

16 Q. Okay. We will get to Rocky Mountain.

17 I'm talking about the one right above where it
18 says, "Leg-breaking time for Casper the Ghost scab."

19 That was written by Mr. Nevarez, correct?

20 A. Yes.

21 Q. And you received this email string, correct?

22 Surely you remember someone threatening to
23 break the leg and calling someone a scab.

24 A. Yes.

25 Q. By the way, "scab" is a very derogatory term to

1 a union member or a union supporter, true?

2 A. "Scab" is a term used to describe someone who
3 has opted out of the union or who crosses a picket
4 line.

5 Q. So "scab" is not a derogatory term to you as
6 former union president, right?

7 It's just a descriptive term --

8 A. Yes.

9 Q. -- as opposed to saying someone crossing a
10 picket line.

11 That scab is not a negative derivation of that,
12 right?

13 A. It's a descriptive term to describe behavior
14 that is -- someone that has voluntarily chosen to
15 not support the union or opt out of the union.

16 Q. Okay. But it is not a derogatory term, right?

17 A. It is not complimentary --

18 Q. Well, wait a minute.

19 A. -- but it is a descriptive word.

20 Q. So as a union member, you are sitting here
21 telling this jury that referring to someone as scab,
22 scab is not really negative. It's not positive,
23 it's not negative. Right?

24 A. I'm saying it is a fact of a description of
25 somebody, the actual definition of it.

1 Q. Okay. Listen to my question. I'm going to
2 give you your chance.

3 Is using the term "scab" to refer to someone a
4 negative term?

5 A. Somebody could consider it negative, yes.

6 Q. Okay.

7 How many questions did it take me to get you to
8 admit the basic fact that "scab" is a negative term?
9 Tell me. I think it is four or five.

10 Why was that so hard?

11 Because your second vice president is referring
12 to a member of the union as a scab, right?

13 A. Someone that has opted out of the union isn't a
14 member.

15 Q. Are you telling me Mike Casper had opted out?

16 A. I don't know if he had opted out at this point.

17 Q. Then let's just stick with what you do know.

18 Mike Casper represents himself as a union
19 member at this time. You can read what he writes.

20 You are telling me, maybe he wasn't? But
21 listen --

22 A. He opted out at one point and he was not a
23 member.

24 Q. But whether he had opted out or not, he never
25 crossed a picket line, did he?

1 A. Not to my knowledge.

2 Q. Okay. So this is just -- just more negative
3 connotation about anyone that opposes union
4 leadership, true?

5 A. We just have different opinions on what the
6 definition of "scab" is.

7 Q. Oh, I thought we came to an agreement.

8 It turns out once again now it went from being
9 positive, neutral, negative, now it is positive
10 again?

11 A. No. I'm just saying that someone that hasn't
12 crossed a picket line, that's not the only
13 definition of somebody that can be a "scab."

14 Q. So when you received this email where your
15 second vice president refers to leg-breaking time
16 for Casper the Ghost scab for having the temerity to
17 object to his union's activities, what did you do?

18 A. I spoke to Brett.

19 Q. You did?

20 A. Yes.

21 Q. You spoke to who?

22 A. Brett. Mr. Nevarez.

23 Q. And you told Brett, Don't do that?

24 A. I told him he shouldn't be even making jokes
25 like that and shouldn't be talking that way about

1 anyone.

2 Q. Isn't, in fact, what you told him is, Don't put
3 it in writing?

4 A. I told him he shouldn't be talking, period,
5 that way.

6 Q. Let me just get an answer to my question.

7 Didn't you, in fact -- have you spoken to
8 Mr. Nevarez recently?

9 A. No.

10 Q. Didn't you, in fact, tell him he shouldn't be
11 putting that type of thing in writing?

12 A. I always told my team that anything they put in
13 writing, they needed to be prepared that it should
14 be something they would be comfortable with the
15 public seeing, and if they weren't, don't put it in
16 writing. That was what I told everyone in Union
17 work.

18 Q. All right.

19 So by the way, those previous emails we looked
20 at, did you tell Mr. Nevarez back then, and
21 Mr. Thompson and whoever else was making fun of
22 Charlene, and the fact they misused her dues, did
23 you tell them, Hey, don't put that kind of stuff in
24 writing, that's improper?

25 A. No. And they didn't misuse her union dues.

1 Q. You just told us, whenever they do something
2 improper in writing, you told us that was improper
3 at the time. You said, Yeah, they shouldn't have
4 said that.

5 Surely you told them, Don't put that in
6 writing, and yet here we go again, here it is.

7 Are they just not listening to you?

8 A. I don't control Mr. Nevarez.

9 Q. So Mr. Nevarez writes, "Leg-breaking time for
10 Casper the Ghost scab."

11 Then someone responds and says, "He is such an
12 ass."

13 And that is talking about Mr. Casper.

14 Do you see this email?

15 A. Yes.

16 Q. And who is Rocky Mountain?

17 A. I don't know.

18 Q. You don't know that Rocky Mountain is the
19 personal email address of Mr. Hafner, one of the top
20 people at Southwest Airlines?

21 MR. GREENFIELD: Objection, your Honor.
22 Lack of foundation.

23 THE COURT: Sustained.

24 THE WITNESS: I did not utilize Southwest
25 leaders' personal email addresses. I didn't have

1 them. My communication with Southwest leadership
2 was always through their WNCO email, company email
3 addresses.

4 BY MR. PRYOR:

5 Q. So you don't know who Rocky Mountain is?

6 A. No.

7 Q. Would it shock you that a member of management
8 of Southwest Airlines would agree with leg-breaking
9 time for Casper the Ghost scab by saying, "He's such
10 an ass"?

11 A. Yes.

12 Q. I will stick with shocking.

13 All right.

14 MR. PRYOR: Let's go to page 97.

15 BY MR. PRYOR:

16 Q. And this an email from Brian.

17 And Brian Talburt's your supporter, a person
18 you appoint to committees, a person who sends you
19 information, right?

20 A. Yes.

21 Q. And he says, "Audrey, a couple of things about
22 this thread. Please delete Brett's comment about
23 leg-breaking."

24 Do you see that?

25 A. Yes.

1 Q. Do you know why he said that?

2 A. Because it wasn't appropriate for Brett to say
3 that.

4 Q. Well, would deleting it be the thing to do
5 about an inappropriate comment, or would it be to
6 keep a record of it and take appropriate action?

7 A. Anything that is out on social media that is
8 inappropriate, my advice to people is always first
9 to delete it if they are made aware that it is
10 something that they shouldn't have posted.

11 Q. So this communication about leg breaking and
12 he's such an ass, you agreed that it should be
13 deleted?

14 A. I believe in my conversation with Brett, I told
15 him he should delete it.

16 Q. And then he goes on to say, "There is a private
17 email between Mike and I. I take this stuff very
18 seriously."

19 Do you know that Mike is Mike Hafner?

20 A. I'm assuming so, just based off of you saying
21 that that was who Rocky Mountain was. I had no -- I
22 did not know that.

23 Q. Okay. So you now assume Rocky Mountain is
24 Mr. Hafner?

25 A. Based off of what you stated.

1 Q. Okay. Based on me telling you?

2 A. Yes.

3 Q. Oh, no. You don't have to accept that. I will
4 tell you that, but I don't want your testimony --

5 A. I don't know who -- I don't know who Rocky
6 Mountain is.

7 Q. Okay. All right.

8 A. I don't know who that email address belongs to.

9 And again, there were a number of Mikes in
10 Southwest leadership --

11 Q. Okay.

12 A. -- then and now on the inflight side.

13 Q. I recall you telling me you would be shocked
14 that it was Mr. Hafner.

15 You don't have to accept what I'm saying about
16 it. We will see if another witness can testify
17 about that.

18 So it says, based -- tell you what -- well, I
19 was going to ask you to assume it was Mr. Hafner so
20 you could interpret what is being said here, but I
21 actually don't want you to do that.

22 In context, do you know what Mr. Talburt is
23 saying when he says, "I would hate to breach a
24 confidence he obviously had in me based on the
25 long-term relationship we developed. He's a great

1 person."

2 And then it goes on.

3 So he's revealing something to you that he
4 wants to make sure doesn't become public, at least
5 that much is clear, right?

6 MR. GREENFIELD: Objection, your Honor,
7 calls for speculation.

8 THE COURT: I will only allow her to
9 answer if she has personal knowledge.

10 THE WITNESS: I don't.

11 BY MR. PRYOR:

12 Q. Do you have an understanding -- how did you
13 interpret this email when you received it?

14 A. That Brian was sharing it with me. That he was
15 concerned about breaching a confidence. But he goes
16 on to say, at the end of the day, he was talking
17 about his job, and he didn't want to hold anything
18 back that he believed, you know, could be helpful.

19 Q. Okay. So would you agree with me that what
20 this email is saying is that I'm having confidential
21 communications with senior members of Southwest
22 Airlines's management, and I want to keep it
23 confidential, I don't want to get anybody in
24 trouble, but if push comes to shove and it is my job
25 and my family, I will do what I have to do.

1 Is that fair?

2 A. Yes.

3 Q. Okay. Let's go back up to the top of page 98.

4 I'm going to read a part of what he says here.

5 He says, "This is just an illustration of the
6 types of conversations I have had with senior
7 Southwest management re dealing with problem people,
8 and in this case specifically, Hafner and Casper."

9 Did I read that correctly?

10 A. Yes.

11 Q. And Hafner and Casper are both union members?

12 A. No.

13 Q. Which one is not?

14 A. Greg Hafner.

15 Q. Is he an objector?

16 A. Yes.

17 Q. Okay. So we are talking about an objector and
18 a union member, and Brian Talburt is telling you,
19 I'm having these secret conversations with Southwest
20 senior management about how to deal with these
21 problem people, true?

22 A. Yes.

23 Q. I'm sure, when you saw that, you would say,
24 That is totally inappropriate.

25 Is that how you reacted?

1 A. No.

2 Q. It is totally inappropriate, isn't it?

3 A. For a flight attendant to have conversations
4 with Southwest leaders, no, that is not
5 inappropriate.

6 Q. Was that my question, ma'am?

7 Of course it's not.

8 You can talk to anybody you want.

9 It's inappropriate to have a conversation with
10 Southwest senior management about trying to deal
11 with people, an objector and a union member that are
12 problematic?

13 A. Yes, that is inappropriate.

14 Q. Okay. That was my question.

15 You are still telling me under oath you are not
16 trying to be evasive, right?

17 A. No, sir, I'm not.

18 Q. You really thought my question was, is it okay
19 for a flight attendant to talk to a member of senior
20 management?

21 That is how you answered my question, and that
22 wasn't being evasive, right?

23 A. No, sir, I was not trying to be evasive.

24 Q. And then there is an email above that on
25 page 97.

1 It says -- this is from you -- "Brian, thanks
2 for sending. Will go through when done with the
3 negotiations. Anything you have where you have used
4 'public execution' in writing?"

5 Is that -- so you are sending an email to Brian
6 trying to find out whether or not he's used the term
7 "public execution" in writing, right?

8 A. Yes.

9 Q. Okay. You were representing him for making
10 comments about executing people?

11 A. No. I was assisting our grievance specialist
12 in his grievance where he had made comments about a
13 public execution and had stated repeatedly that he
14 did not mean really executing somebody, and that he
15 had had numerous conversations with people,
16 including Southwest leaders, explaining what he
17 meant.

18 Which is why I was asking him if there was
19 anything in writing that depicted what he was really
20 trying to say, to defend that it was not him
21 actually literally saying somebody needed to be
22 publically executed.

23 Q. I'm not saying --

24 THE COURT: Did you have an objection?

25

1 BY MR. PRYOR:

2 Q. -- he was actually talking about public
3 execution.

4 THE COURT: Hold on. Hold on.

5 Do you need a sidebar?

6 MR. GREENFIELD: Yes, your Honor.

7 (Thereupon, the following proceedings were
8 had at sidebar:)

9 MR. GREENFIELD: Sorry, Mr. Pryor, to
10 interrupt your flow.

11 Because of my vantage point, I caught
12 another witness who has entered the courtroom. I
13 know we've invoked the rule, so I just wanted to
14 make the Court aware of it.

15 It is Mr. Parrott.

16 THE COURT: Who is he?

17 MR. GREENFIELD: Mr. John Parrott.

18 THE COURT: Okay. Kevin --

19 MR. GREENFIELD: John Parrott is here.

20 THE COURT: Okay.

21 MR. GREENFIELD: He's our next witness, I
22 think.

23 I just wanted to be able to get him out,
24 if you didn't want to him to hear what was going on.

25 THE COURT: So we need to take a lunch

1 break and get the witness out, but you have got a
2 live question.

3 Or do you have a live question?

4 Did she give you a satisfactory answer?

5 If you another question or two, I'll --

6 MR. PRYOR: I can break any time. This is
7 a great time.

8 THE COURT: Okay.

9 Then let me call our lunch break now. You
10 can pick back up and jump back to that question, if
11 you want to, after lunch, and then we'll get the
12 witness out of the room.

13 MR. PRYOR: Thank you, your Honor.

14 MR. GREENFIELD: Can we have some sort
15 of -- something to the jury that I'm not trying to
16 put the kibosh on what is happening here, just that
17 there was some protocol --

18 MR. PRYOR: It is a witness.

19 MR. GREENFIELD: -- that had to be talked
20 about?

21 Thank you, your Honor.

22 (Thereupon, the sidebar was concluded and
23 the following proceedings were held in open
24 court:)

25 THE COURT: Okay. We had to talk about a

1 witness issue; it is not anyone's fault. But I
2 notice that it is after noon, and so we should give
3 y'all your lunch break.

4 So I'm going to ask that we pause the
5 action here. We will pick back up with Ms. Stone's
6 testimony after lunch.

7 So let's take an hour lunch break. It's
8 12:07. We will be back here at 1:07, and then we
9 will back on the record.

10 Same three instructions as always. You
11 can only talk to your fellow jurors, just not about
12 the case. Don't talk to anyone else in the
13 courthouse and don't do any research on the case.

14 All rise for the jury.

15 (The jurors exited the courtroom.)

16 THE COURT: All right.

17 Ms. Stone, you're free to leave the
18 witness stand.

19 But now that you are a witness, you are a
20 ward of the Court. That means you are with me, and
21 so you are not supposed to talk to a lawyer or
22 anyone else about the case until I excuse you from
23 your testimony in this case.

24 Does that make sense?

25 (Thereupon, the witness exited the

1 courtroom.)

2 THE COURT: Okay. Any other issues anyone
3 has that they want to bring up now?

4 Okay. Let's be back in here maybe at five
5 minutes, so 1:02 is our target time. We can handle
6 anything that comes up in the meantime.

7 And then we will bring you in after we
8 have handled any legal issues and then continue with
9 your testimony.

10 MR. GREENFIELD: And your Honor, just
11 maybe for the information of the witness, why we
12 took the break.

13 THE COURT: Yes. We took the break
14 because a witness came into the room. So witnesses
15 can't be in the room because we have invoked the
16 rule in this case, which means witnesses have to sit
17 out in the hall unless you've got special
18 dispensation to sit at the counsel table.

19 So witnesses can't be in the room.

20 Okay. With that, we will take our break.
21 We will see you at 1:02.

22 (Recess.)

23 (In chambers).

24 THE COURT: Hello. I'm Brantley. You are
25 not in trouble. Don't worry.

1 I need to ask you a couple of questions
2 because I know the lawyers will ask me, because I
3 have to tell them what you wrote me.

4 So I know you say you didn't know
5 Charlene, if y'all went to high school together, you
6 didn't know her.

7 JUROR NO. 8: Right.

8 THE COURT: Do you know anything about
9 her?

10 JUROR NO. 8: I just kind of --
11 whenever -- I kept saying I kind of -- she looked
12 familiar. I was thinking maybe it was from around
13 town. Because I worked at the bank. I was thinking
14 maybe.

15 And then today whenever they said that she
16 was from Lake Dallas, it started kind of clicking.
17 And then I saw her maiden name in one of the
18 documents that was on there. And I was, yeah, that
19 is her, I think.

20 THE COURT: Was it Gale?

21 JUROR NO. 8: Batt.

22 THE COURT: Batt.

23 JUROR NO. 8: And she was an upper
24 classman. So I really don't know -- I might know
25 the group of girls she hung around with. We weren't

1 friends.

2 THE COURT: Okay.

3 JUROR NO. 8: And I don't really know any
4 more that, that I recall anyway.

5 THE COURT: Yes. Okay.

6 And let me ask you sort of like the
7 questions we asked yesterday.

8 Is there anything you told me about that
9 or anything that you know of about her would that
10 keep you from being impartial in this case?

11 JUROR NO. 8: No.

12 THE COURT: Okay. Got it.

13 So I will go tell them. They may want to
14 ask you the same questions, ask you some different
15 ones. We will try to clean that all up as soon as
16 we can and get back rolling.

17 Thank you for telling me. You did the
18 absolute right thing.

19 JUROR NO. 8: And if they ask me why I was
20 in here, am I allowed to tell them? Or no?

21 THE COURT: How about, don't tell them.
22 Just tell them it is a judicial issue and the judge
23 will take care of it.

24 I'm sorry.

25 JUROR NO. 8: It is okay. I just wanted

1 to know.

2 THE COURT: You are right. It is a tough
3 question. Thank you.

4 (Recess.)

5 (In the courtroom).

6 THE COURT SECURITY OFFICER: All rise.

7 THE COURT: You can be seated.

8 It wouldn't be day 2 of trial if we didn't
9 have a strange jury issue.

10 So here it is, strange jury issue of the
11 day. Hopefully, the only we will get in trial.

12 We have a juror who wrote me a note. It
13 is Juror No. 8. Sonia Freeman is her name. She
14 sits in the back corner.

15 And Mr. Frye, you can go ahead and hand
16 out the note she wrote me. And I will read it to
17 you so it is in the record.

18 She says, "Not sure, but may have went to
19 high school with Charlene. I was at Lake Dallas
20 High School 1981 to 1985. Did not know her, if so,
21 but wanted to disclose this, if so." Signed, Sonia
22 Freeman.

23 MR. PRYOR: Can we inquire of my client?

24 THE COURT: Yes, you may.

25 MR. PRYOR: What was the year?

1 THE COURT: The year was 1981 to 1985,
2 lake Dallas High School.

3 (Pa.)use

4 THE COURT: Do you know anything yet? Was
5 she at Lake Dallas High School?

6 MR. PRYOR: She was at Lake Dallas High
7 School between 1981 and 1985. She graduated in
8 1983. She does not recognize the juror.

9 THE COURT: Okay. And so what I will say
10 is, I knew when I got this note, y'all might have
11 some other questions. I went ahead and asked her
12 some of the questions I knew y'all would want to
13 ask, and then y'all may have others.

14 I asked her, Well, did you hear anything
15 about Charlene? And she said, No. She thought --
16 if this is the same person -- that Charlene was an
17 upper classman. And that math checks out, because
18 Sonia graduated in '85; you in '83.

19 She said she may have known some friends
20 in the same group that your group of friends in, but
21 she didn't really know you specifically. Didn't
22 have any recollections of anything anyone ever said
23 about you.

24 I asked her two other questions. One,
25 Based on your knowledge of her, but not really

1 knowing her, could you be fair and impartial? She
2 said without hesitation, Yes.

3 Two is, I asked, Well, why did you
4 disclose that today?

5 And she said she could see you more
6 closely today. You can see from the distance, she's
7 a lot closer to you today, Ms. Carter, than she was
8 yesterday in jury selection. And she your maiden
9 name on some of the documents that we've gone
10 through in evidence this morning.

11 So I don't think she was genuinely trying
12 to lay behind the log, but she's closer to you and
13 she saw your maiden name, so that triggered a
14 memory.

15 So my question is, do y'all want to ask her
16 further questions? Because I have no problem if
17 anyone wants to ask her further questions.

18 MR. McKEEBY: Can I confer briefly with my
19 client?

20 THE COURT: You may. Yep. How about
21 this, I can put on the white noise, Mr. McKeeby.

22 (Discussion off the record.)

23 THE COURT: Okay. What do you think?

24 MR. McKEEBY: I think counsel for the
25 Union, as well as myself, would like to ask a couple

1 of follow-up questions, but --

2 THE COURT: That sounds fine by me. And
3 then I will let y'all ask any follow-up questions.
4 We'll go Southwest, Union and then Carter.

5 MR. PRYOR: Sure.

6 THE COURT: Okay. Let's bring her in.

7 She asked me, Well, can I tell the other
8 jurors what it is about? I said, No.

9 And this is sort of like criminal defense
10 cases with multiple defendants, right? Like, you
11 leave the room, Oh, are you talking to the cops?
12 Who are you talking to?

13 MR. McKEEBY: Should I take the podium
14 or --

15 THE COURT: You can take the podium. And
16 I have asked --

17 (The juror entered the courtroom.)

18 THE COURT: Okay. Welcome back,
19 Ms. Freeman. Thank you. You're under oath as a
20 juror. We're not going to seat you in the witness
21 box.

22 Oh, can we just give her a handheld mic?
23 Yeah, we're not used to having you talk. I'm sorry.

24 Okay. So, Ms. Freeman, I told them what
25 our exchange was, and then I gave them the option of

1 asking -- I gave them the option of asking you some
2 questions. So Southwest, then the Union, then
3 Carter is going to ask you questions very briefly.

4 JUROR 8: Okay.

5 THE COURT: Go for it.

6 MR. McKEEBY: Okay.

7 Hi, Ms. Freeman. Just a couple of
8 questions to -- about the issue that you raised.

9 Did you know any of -- did you hear
10 anything or know anything about Ms. Carter in terms
11 of, you know, what she did activities-wise or
12 classes she took while you were in school together?

13 JUROR 8: No.

14 MR. McKEEBY: Did you know any of her
15 friends?

16 JUROR 8: If I did, I don't remember. I
17 mean, I don't recall.

18 JUROR 8: And I'm assuming, since you did
19 the right thing and raised the issue voluntarily,
20 that you can commit to everyone at this trial that,
21 notwithstanding, that you had some overlap in high
22 school with Ms. Carter, or may have, that you can
23 keep your commitment to be fair and impartial to all
24 of the parties; is that fair?

25 JUROR 8: Yes.

1 MR. McKEEBY: Including my client,
2 obviously --

3 JUROR 8: Yes.

4 MR. McKEEBY: -- Southwest Airlines?

5 JUROR 8: Yes.

6 MR. McKEEBY: Okay. That is all.

7 THE COURT: Okay. Thank you, Mr. McKeeby.

8 Mr. Greenfield, you can ask questions.

9 MR. GREENFIELD: Yes. I know Lake Dallas
10 is a growing area at this point in time.

11 JUROR 8: Yes.

12 MR. GREENFIELD: In the '80s, I'm
13 presuming it was pretty small?

14 JUROR 8: Yes, it was smaller.

15 MR. GREENFIELD: How big was your
16 graduating class?

17 JUROR 8: I think a hundred.

18 MR. GREENFIELD: A hundred.

19 Do you have any older brothers or sisters?

20 JUROR 8: Not from the school district.

21 MR. GREENFIELD: All right. And did you
22 personally have any extracurricular activities that
23 you took part in while you were at Lake Dallas?

24 JUROR 8: I was a manager on drill team,
25 and that -- but I didn't interact with her, I don't

1 believe.

2 MR. GREENFIELD: I'm sorry, say that last
3 part.

4 JUROR 8: I don't think I interacted with
5 her. I mean, we had different friend groups.

6 MR. GREENFIELD: So you said you were on
7 the drill team. You think she might have been.

8 But you didn't interact with her?

9 JUROR 8: I think -- she was an
10 upperclassman, and I believe she might have been on
11 the drill team before I was.

12 MR. GREENFIELD: Okay. That is all.
13 Thank you so much.

14 THE COURT: Thank you, Mr. Greenfield.

15 Okay, Mr. Pryor, you can ask questions.

16 MR. PRYOR: I'm impressed with all of you
17 that can remember high school. It has been too long
18 ago for me.

19 And I'm disappointed, I mentioned Lake
20 Dallas in my opening and that doesn't -- that didn't
21 ring a bell with you?

22 JUROR 8: No. No. I didn't even hear it.
23 No, I heard it today, and I didn't hear it
24 yesterday.

25 MR. PRYOR: No worries.

1 Okay. So if -- I just want you to
2 understand, if the Judge decides that you continue
3 to sit on this jury, that is a decision that no one
4 thinks that there is anything about your past that
5 makes you anything but the same juror we thought you
6 were before, impartial.

7 You deliberate just as you would have
8 before. You don't have to feel like, gee, because I
9 recognize her from high school, that means I have to
10 somehow give more favor to one side or another. You
11 are just the same juror you always were if you
12 continue to sit, right?

13 JUROR 8: Yes. And I only recognized her
14 because you said Lake Dallas today, and that kind of
15 drew my attention. And then I started thinking --

16 MR. PRYOR: Oh, okay, good.

17 JUROR 8: -- did I know her last name?
18 And then I seen her maiden name in a document, and
19 then I was like, yes, I recognize that. But that is
20 the only way I recognized her.

21 MR. PRYOR: I think we all find that very
22 understandable. Thank you.

23 JUROR 8: Uh-huh.

24 THE COURT: Okay. Any further questions?

25 Okay. You are excused as a sort of

1 witness. You can go back to the jury room.

2 (The Juror exited the courtroom.)

3 THE COURT: Okay. So any concerns with
4 this juror participating as a juror?

5 MR. GREENFIELD: I have concerns, your
6 Honor. I have concerns.

7 THE COURT: Okay. Talk to me.

8 MR. GREENFIELD: It was a small town at
9 the time. It's close. I know they don't -- she
10 doesn't have any specific --

11 THE COURT: Can you grab that mic?

12 MR. GREENFIELD: Yes. I apologize.

13 I know she doesn't have any specific
14 recollections. She does think maybe they were on
15 the drill team together, different class points. I
16 can't imagine I wouldn't have struck her if I didn't
17 know that. If I would have had this information, I
18 would have used one of my strikes on this witness.

19 THE COURT: Against her.

20 And would have not used a strike on who?

21 MR. GREENFIELD: Well --

22 THE COURT: Struck her instead of someone
23 else?

24 MR. GREENFIELD: We pooled strikes with
25 Southwest, as you know. I think if we would have

1 known that as a team, we would have used one of them
2 on 21. I can't -- I don't want to speak for them,
3 but I would have pushed.

4 MR. McKEEBY: I mean, I think it would
5 have been a cause strike at that point.

6 I mean, there is enough concern about --
7 about bias that -- I understand she sat up there and
8 said she was impartial, and I credit her. And I'm
9 sure she's being as truthful as she can be.

10 But, I mean, I would have asked that that
11 be a cause strike, quite frankly. I don't know what
12 the Court would have done. But I have the same
13 concerns, I guess. But I don't really understand, I
14 have not been in this situation before --

15 THE COURT: Sure.

16 MR. McKEEBY: -- and really know what is
17 behind door No. 1.

18 So to suggest how strongly I should object
19 to this, because I don't want a mistrial, but --

20 MR. GREENFIELD: And your Honor, if I may,
21 a little bit more transparency.

22 The last individual we decided about
23 striking as a group was between Juror No. 8 and
24 Juror No. 21.

25 Ultimately, we decided on 8, which was

1 also struck by the plaintiffs. But she was our
2 other consideration. And if -- that would have been
3 her, if I would known that information.

4 THE COURT: And that is helpful for me to
5 know. That is why I asked.

6 Okay. So you wouldn't have used a strike
7 on -- you gave me a number, and I appreciate that.

8 Okay. Let me ask Carter's thoughts.

9 MR. PRYOR: Unless there was an
10 intentional misrepresentation on her part, once
11 she's seated on the jury, it is a question of
12 whether or not she has done something that indicates
13 a bias.

14 I don't think anyone here is saying she
15 was lying during voir dire. And so now, given she's
16 properly seated, has she shown any bias? I don't
17 think she has.

18 In terms of the exercise of their strikes,
19 I don't know what the law is on that. I don't know.

20 THE COURT: Understood.

21 Well, okay. Any last thoughts?

22 MR. McKEEBY: None that wouldn't just be
23 repetitive of what I said.

24 I mean, I just have concerns that -- I
25 mean, again, if I would have known this, we would

1 have certainly addressed the strikes differently.

2 THE COURT: Understood.

3 Well, what I will tell you is, I don't
4 think I've seen enough from what she said to kick
5 her on a cause basis, if we were to put ourselves
6 24-hours ago.

7 What I would say is, I'm sympathetic to
8 the notion of this late-breaking knowledge is
9 something that we all should have known yesterday.
10 We didn't because the Lake Dallas wasn't enough of a
11 trigger for her, but the maiden name was, combined
12 with Lake Dallas.

13 So I get that. She was not laying behind
14 the log. I don't think she's lying about being
15 impartial. But I'm taking your statement at face
16 value that you would have struck her instead of No.
17 8.

18 Does that make sense?

19 So because of that, what I need to do is
20 kick her off the jury at this point. We still have
21 a plus one. We still go on with a jury of 7. We
22 can't get below 6, right? And so we've lost
23 50 percent of our margin that I was hoping to keep
24 throughout the case.

25 And so it is incumbent on all of us --

1 most importantly, the jury -- to not lose anyone
2 else.

3 Does that make sense?

4 So again, I don't think she's biased or
5 partial in some way. But because we did deprive you
6 of the ability to have that knowledge when using
7 your peremptories -- and you are saying that you
8 would have used a peremptory on her -- I think I
9 have to credit that at this point.

10 So what I will do -- I guess the question
11 is how to break that to the jury.

12 I can do it cryptically, right, and bring
13 in all of the jury, and say, It's come to our
14 attention, through Juror No. 8, that an issue has
15 arisen that I think meets the legal test for me to
16 excuse her from her service as juror, and not say
17 anything beyond that.

18 They are not supposed to talk about the
19 case, right? And so earlier, the things she told me
20 indicates that no one else has an idea what note she
21 wrote. And so she's just off. She gathers her
22 things and leaves, and then she's excused as a
23 juror.

24 Any issue with that as the protocol on how
25 I orchestrate this?

1 Okay. I will do it.

2 And we will limp along with one reserve
3 and see if that can get us across the finish line.

4 So, sorry. Got to buckle up on Day 2 of
5 trial. That is when the curveballs really happen
6 with the jurors.

7 But let's bring them in, and I will excuse
8 Juror 8.

9 THE COURT SECURITY OFFICER: All rise for
10 the jury.

11 (The jurors entered the courtroom.)

12 THE COURT: Okay. You can be seated.

13 Okay. So sorry for the delay.

14 We had to have a discussion with Juror No.
15 8. And Juror No. 8 brought an issue to my
16 attention.

17 I'm not going to tell you what it is
18 because it doesn't matter.

19 But there is a reason she brought it to my
20 attention that meets the test for me excluding her
21 as a juror.

22 Because of that, then, I'm excusing you
23 Juror No. 8, as a juror.

24 We still have enough to keep going. We
25 will miss having you here because this is a good

1 group. I can tell from hearing conversation in the
2 hall. It is a collegial group. I know they are
3 going to serve admirably as a jury.

4 I'm sorry that you can't be a part of it,
5 but I appreciate you bringing the matter to my
6 attention. I thank for your service yesterday and
7 today.

8 Mr. Frye can still get you a certificate,
9 so don't leave just yet. He can go back and make
10 sure you get your certificate and are covered for
11 yesterday and today. We will all rise for you, then,
12 as you walk out.

13 (The excused juror exited the courtroom.)

14 THE COURT: Okay. Now we can be seated.

15 And Ms. Stone, you are still under oath.

16 And so I believe, Mr. Pryor, you were
17 still asking questions, so you can resume your line
18 of questioning, sir.

19 BY MR. PRYOR:

20 Q. Ms. Stone, let's go back to Exhibit 27.

21 It should be on your screen in a second.

22 There we go.

23 All right. We had talked about Mr. Talburt's
24 email to you about deleting the broken leg comment.

25 MR. PRYOR: The next page, Matt.

1 BY MR. PRYOR:

2 Q. And then that you would be shocked if the Mike
3 referred to was Mike Hafner, the member of senior
4 management, that that was Rocky Mountain.

5 Do you recall that?

6 A. Yes, sir.

7 Q. Okay.

8 MR. PRYOR: Let's go back to the last
9 paragraph of Brian's email to you.

10 No, go back.

11 No. Leave it alone. There you go.

12 Thanks.

13 BY MR. PRYOR:

14 Q. And he says, "So what I'm saying is, if we have
15 to use this type of evidence to secure my job, then
16 we have to do what we have to do."

17 THE COURT: One moment.

18 I have got to unmute their jury screens
19 right quick.

20 MR. PRYOR: Every time I look on the
21 screen, it is somewhere else.

22 THE COURT: Okay. There we go.

23 BY MR. PRYOR:

24 Q. All right. Then the next sentence is, "Please
25 just keep my thoughts in mind. BTW" -- presumably,

1 by the way -- "the Rocky Mountain email is Mike's
2 personal email. I do not like using company email
3 for obvious reasons."

4 Do you see that?

5 A. Yes, sir.

6 Q. Does that tell you who Mike is?

7 A. No.

8 Q. Okay. And where he says, "I do not like using
9 company email for obvious reasons," do you know what
10 he's talking about there?

11 A. No.

12 Q. Even though he had just told you that they are
13 talking about using social media to target people,
14 including Haffer and Casper. And that doesn't tell
15 you he wants to keep those kinds of communications
16 off company emails for obvious reasons?

17 You didn't read that in context?

18 A. He already said he wanted to keep it
19 confidential.

20 Q. It sounds like he's reiterating that point or
21 is there something else he's wanting to keep secret,
22 too?

23 A. I don't know if there is something else.

24 Q. So when you got this email, did you point out
25 that it is inappropriate? Did you respond and say,

1 That is inappropriate, we can't be targeting people
2 using social media and the assistance of Southwest
3 senior management?

4 A. No.

5 Q. Instead, you responded and talked about, Did
6 you ever use public execution in public, right?

7 A. Yes.

8 Q. Okay.

9 MR. PRYOR: Let's look at Exhibit 140.

10 We move for the admission of Exhibit 140.

11 MR. McKEEBY: This is another one with the
12 limiting instruction.

13 THE COURT: Understood. Same objections
14 as this morning, otherwise, for Southwest and Union?

15 MR. McKEEBY: Correct.

16 MR. GREENFIELD: Yes, your Honor.

17 THE COURT: Okay. So on 140, I'm
18 admitting it with the same limiting instruction I
19 gave you earlier.

20 This document No. 140 is relevant to the
21 claims against the Union, not relevant to the claims
22 against Southwest.

23 It is admitted.

24 You can publish.

25

1 (The referred-to document was admitted in
2 Evidence as Plaintiff's Exhibit 140.)

3 BY MR. PRYOR:

4 Q. Do you recognize this document?

5 A. No.

6 Q. Do you need a hard copy of it?

7 A. No, sir, but if I can just have a moment to
8 read through it.

9 Q. Okay. Could you bring the microphone closer to
10 your mouth? And I will bring you a hard copy, if
11 you want. It is hard for him to know where to
12 scroll. He's -- it is hard for him to know where I
13 want him to scroll.

14 Let me know when you are ready and I can ask
15 you a question.

16 A. Okay. I have just skimmed it.

17 Q. Okay. I will point to specific things you can
18 look at. If you think I'm taking it out of context,
19 you can read more.

20 So this is Mr. Talburt, Brian Talburt, your
21 supporter, who's emailing Sonya Lacore, senior
22 manager at Southwest Airlines, and Mike Hafner,
23 senior manager at Southwest Airlines, right?

24 A. Yes.

25 Q. Who is Jamie Willard?

1 A. She was also in a leadership position at
2 Southwest Airlines for inflight.

3 Q. And he again is communicating with senior
4 management at Southwest Airlines, it looks like, at
5 least in terms of specifics, complaining about
6 Mr. Casper and that social media could be utilized
7 to deal with that.

8 Is that fair about the general context?

9 A. Yes. I think so.

10 Q. Okay. And I can't remember between Casper and
11 Hafner, was Mr. Hafner, in 2014, an objector or a
12 union member?

13 A. I don't know.

14 Q. Okay. But it wouldn't matter in terms of the
15 Union's obligation to look after him, right?

16 A. Correct.

17 Q. And so when you got this email from Brian, in
18 October 13 of 2014, were you president then?
19 October?

20 A. Yes. When the email was sent, yes.

21 Q. You get an email -- yet another email talking
22 about targeting a union member or union objector
23 using social media.

24 Your response was what?

25 A. I don't -- I don't think I wrote -- I don't

1 recall writing anything back to Brian.

2 The conversation -- the email and the
3 conversations took place way before I was in a
4 leadership position.

5 Actually, I wasn't even working for the Union
6 when this email took place.

7 And I had had conversations with Brian
8 eventually of just stop sending me things because I
9 had a very busy job. And getting emails like this
10 just wasn't -- there wasn't anything for me to do
11 with that. I wasn't a part of the conversations and
12 asked him to just stop.

13 Q. Well, you know, as -- if I was an objector in
14 the union, I might think there were some things you
15 could do.

16 How about contact Southwest management and say,
17 Don't use social media policy to target my members
18 and objectors? How about doing that?

19 A. I had numerous conversations with members of
20 Southwest Airlines management about the social media
21 policy and what I thought was inappropriate
22 discipline being leveled for both members and
23 non-members.

24 Q. Okay. Listen to my question.

25 Did you have a conversation with them when you

1 said to them, Quit discussing with union members
2 about using social media policy to target union
3 members we don't like? Anything like that?

4 A. No. I never had a conversation with anybody in
5 management about specific members.

6 Q. You looked at several emails that raised those
7 issues and you never disavowed them to the
8 management of Southwest Airlines saying, Don't do
9 that?

10 A. No.

11 MR. PRYOR: Let's look at Exhibit 141.

12 BY MR. PRYOR:

13 Q. By the way, do you think you should have? Do
14 you think that you should have done that?

15 A. I didn't believe it was -- that I had any
16 control over the conversations that management chose
17 to have with an employee. A private conversation.
18 And I did have numerous conversations with leaders
19 about the social media policy.

20 Q. Oh, I am aware that you have, and we are going
21 to talk about it.

22 But you had no conversation with them
23 disavowing these type of back-door conversations and
24 efforts, even though it was against objectors and
25 union members, your union had an obligation to,

1 true?

2 A. I did not have conversations, no.

3 Q. Was there something not true about my
4 statement, you couldn't say true?

5 A. It is true.

6 Q. Okay. That is what I was expecting to hear,
7 not a limitation. It is true.

8 MR. PRYOR: Let's look at Exhibit 141.
9 Exhibit 141.

10 THE COURT: Is it admitted?

11 MR. PRYOR: Oh, I didn't offer it. I
12 apologize.

13 THE COURT: It's on the monitor. You can
14 show it to the witness.

15 MR. PRYOR: May I --

16 THE COURT: Are you moving for its
17 admission?

18 MR. PRYOR: I'm sorry?

19 THE COURT: Are you moving for its
20 admission?

21 MR. PRYOR: Yes, I am, Your Honor.

22 THE COURT: Okay.

23 MR. PRYOR: That's what they were waiting
24 on. I should have said --

25 THE COURT: Same objections as earlier,

1 limiting?

2 MR. McKEEBY: Correct. With the request
3 for the limiting instruction.

4 THE COURT: Okay. I'm overruling the
5 earlier objections, and I will admit it with the
6 same limiting instruction, this one applies to the
7 claims against the Union, not to the claims against
8 Southwest.

9 We are publishing.

10 (The referred-to document was admitted in
11 Evidence as Plaintiff's Exhibit 141.)

12 BY MR. PRYOR:

13 Q. Okay. This is an email. The first one is from
14 Brian Talburt to Sonya Lacore.

15 And we know who they are, right?

16 A. Yes.

17 Q. And he says, "So my final installment on this
18 subject."

19 Did you see any of the other installments?

20 A. No, not to my recollection.

21 Q. Okay. And then it says -- I'm going to read
22 parts of it. You are welcome to read any parts of
23 it you want.

24 "The issue becomes the tumor. While I hate to
25 give him credit for anything, Casper really was the

1 first legitimate cancer or tumor -- cancerous tumor
2 that had any significant reach with 1,000 members.
3 But in a relatively insightful way, he could be
4 contained."

5 And Casper, again, is talking about Mike
6 Casper?

7 A. Yes, I assume so.

8 Q. And he's referring to him as a "cancerous
9 tumor." Yes?

10 A. No. I read that he's referring to issues
11 becoming the tumor.

12 Q. He was really the first legitimate cancerous
13 tumor.

14 So do you know what nouns and pronouns and
15 adjectives are?

16 A. I do. I was looking at the sentence above.

17 Q. And so you are saying that what they are
18 referring to is what he's doing is, as opposed to,
19 "The first legitimate cancerous tumor"?

20 That doesn't refer to Mike Casper?

21 A. I see that now. I was reading the sentence
22 right above it --

23 Q. Okay.

24 A. -- where it said, "The issue becomes the
25 tumor."

1 Q. Oh, no, I'm not disagreeing about that one.

2 A. Okay.

3 Q. Okay. So we agree that, "The first cancerous
4 tumor" is, according to this email, Mike Casper?

5 A. When I read the whole sentence, I think he was
6 talking about the forum that was set up by Casper.

7 Q. Okay. All right. That is the way you read it
8 at the time, too, right?

9 A. Yes.

10 Q. And then it says, "He could be contained."

11 Do you know what that is referring to?

12 A. No.

13 Q. Then it says -- skipping a sentence -- it says,
14 "Corliss, particularly, is something we have not
15 seen before and is incredibly dangerous. The
16 attitude she spans is NW Airlines in the 19 -- in
17 the '80s. People listen, and people react" -- I'm
18 going to read keeping, and then I'll ask you
19 questions -- "I am all about targeted
20 assassinations. I'm sure with her dreadful work
21 history, there could be opportunities. She will
22 play very well to the heavy, inner-city minority
23 crowd coming on board soon. She will be the voice.
24 She will be a huge threat in our upcoming election
25 as well. She plays very well to her crowd."

1 Did you disavow any of those statements at any
2 time?

3 A. I spoke to Brian and I told him he needed to
4 stop having conversations and sending stuff in
5 emails, that people in Southwest management were in
6 a leadership position, they were not his friends,
7 they were not his buddies, even if he thought that
8 because of his tenure as an employee.

9 Q. Ma'am, that is pretty convenient when you are
10 sitting here in front of a jury.

11 This was sent as an email to you in writing, in
12 a communication.

13 Did you ever -- can you point to one piece of
14 email from you, anything in writing, disavowing the
15 actions of your supporter, who is sending this to
16 you, feels very comfortable sending this to you,
17 talking about trying to eliminate a potential
18 candidate against your leadership?

19 A. He sent this to me as indication of the
20 conversations using phrases like "targeted
21 assassination" that he had had with members of
22 management. That was why he sent that to me, as
23 documentation.

24 He sent me a lot of things during this time.
25 And most of them, I did not respond to.

1 We had a conversation about a slew of the
2 emails that he sent. But, no, I -- there is no --
3 not anything in writing.

4 Q. I was waiting for all of that information you
5 just gave us for the answer, and you finally
6 answered it at the end.

7 Nothing, right?

8 A. No. Not besides what has been presented.

9 Q. What do you mean "besides"?

10 There is nothing from you here disavowing this.

11 A. I'm sorry. In other documents that were sent,
12 I think around the same day, there were just
13 comments that I had replied to. Not disavowing.

14 Q. Who is Corliss?

15 A. She is a flight attendant for Southwest.

16 Q. Is she African-American?

17 A. Yes.

18 Q. And it is very clear that Ms. Lacore and
19 Mr. Talburt -- and you, by being included on this
20 email -- are being informed that "she's a danger to
21 your leadership and now is the time for a targeted
22 assassination, maybe we can use her dreadful work
23 history to get rid of her."

24 Isn't that what is being said?

25 A. That is not how I -- I didn't participate in

1 that conversation and that was not what I took from
2 this.

3 Q. Oh, okay.

4 Well, let's read it again together so we can
5 see how you took it.

6 "Corliss particularly is something we have not
7 seen before and is incredibly dangerous."

8 So he must be talking about -- did she carry
9 guns? Did she know judo? What -- how did you take
10 that?

11 A. That it was Brian just spewing off at the mouth
12 about flight attendants that he didn't support and
13 he didn't want to see in a leadership position.

14 Q. Ma'am, does it cause you any concern that your
15 supporter feels very comfortable sending something
16 to you, knowing there will be no repercussions, when
17 he's talking about taking adverse action against
18 someone because of their race, not just because they
19 are a union member?

20 That doesn't bother you?

21 A. I don't agree with what you said, and I don't
22 think her race had anything to do with how Brian
23 felt about her.

24 Q. You don't think this is about race?

25 A. No, sir.

1 Q. So when he said, "She's incredibly dangerous,
2 she's going to play very well with the heavy
3 inner-city minority crowd," he's not talking about
4 her race?

5 He's talking about what? She's packing a gun?

6 That is not how you, as union president, read
7 this?

8 A. No.

9 Q. I just want to be sure, very clear.

10 You think there is nothing --

11 MR. GREENFIELD: Objection, your Honor.

12 This is the third time. He's asking the same
13 question.

14 THE COURT: I will sustain that.

15 MR. PRYOR: I didn't hear that.

16 THE COURT: I will sustain that. It is
17 duplicative, cumulative, repetitive.

18 MR. PRYOR: Asked and answered, is that
19 the -- was that the objection?

20 THE COURT: Yes. That's another way to
21 say it.

22 MR. PRYOR: I'm trying to hear.

23 BY MR. PRYOR:

24 Q. And then, Mr. Talburt sends you an email. And
25 he's talking about the close relationship he's dealt

1 with Sonya Lacore.

2 Do you see that?

3 A. Yes.

4 Q. And you represented Brian, or you helped the
5 grievance committee with him.

6 You know for a fact that no one at Southwest
7 Airlines senior management reported Mr. Lacore for
8 any company violation for making these kind of
9 statements to senior management?

10 A. Did you say Mr. Lacore?

11 Q. What was your question?

12 A. Did you say Mr. Lacore?

13 Q. I can't hear what you are saying.

14 A. Did you say Mr. Lacore?

15 Q. I should have said Ms. Lacore.

16 But other than that --

17 A. Can you repeat your question?

18 Q. Yes.

19 You know for a fact that Ms. Lacore did not
20 report Mr. Talburt for any company violation for
21 threatening someone both because they were a union
22 member that might threaten your leadership, or
23 because she's African-American and there was no
24 report?

25 MR. GREENFIELD: Objection. Relevance.

1 MR. McKEEBY: Well --

2 THE COURT: I will sustain that.

3 MR. PRYOR: May we approach?

4 THE COURT: You may.

5 (Thereupon, the following proceedings were
6 had at sidebar:)

7 MR. PRYOR: It doesn't matter that
8 Ms. Lacore didn't report it?

9 THE COURT: Well, Lacore is Southwest, not
10 Union.

11 MR. McKEEBY: She is, yes. It doesn't
12 matter that she didn't report it. She's not a
13 decision maker. This is a motion in limine.

14 THE COURT: It's not a fair representation
15 claim as to Lacore.

16 MR. McKEEBY: Exactly.

17 THE COURT: Lacore is not a leader.

18 MR. PRYOR: But we have claims against
19 Southwest Airlines that this relates to.

20 MR. McKEEBY: No. Because Ms. Lacore had
21 nothing to with the termination decision of
22 Ms. Carter, and that is the whole basis of our
23 motion in limine. They are just trying to slime
24 Ms. Lacore by making her look bad for not reporting
25 this supposed --

1 THE COURT: I will sustain it.

2 MR. PRYOR: Let --- can I just respond?
3 Because that is just not accurate on the facts.

4 On February 22nd, 2017, when she
5 reported -- when this -- when Ms. Stone reported
6 Ms. Carter, she included on her report, her
7 complaint, even though you are not supposed to --
8 she was supposed to have been just the base
9 manager -- she sent it to Sonya Lacore.

10 We absolutely believe Sonya Lacore is
11 involved. And Mike Sims testified he brought the
12 termination letter in to Sonya Lacore. You can't
13 act like Sonya Lacore wasn't involved in this.

14 MR. McKEEBY: Sure I can. She wasn't.

15 I mean, you have seen the summary judgment
16 proof. She was not a decision maker. She was
17 copied -- Ms. Stone decided to copy her on a
18 complaint. But she was not involved, and therefore,
19 she's not relevant, and it shouldn't come in. It's
20 just --

21 MR. PRYOR: Yes.

22 THE COURT: I haven't heard anything that
23 makes me change my mind. Let's continue.

24 (Thereupon, the sidebar was concluded and
25 the following proceedings were held in open

1 court:)

2 BY MR. PRYOR:

3 Q. Did you report Brian Talburt to Southwest
4 Airlines for violations of Southwest's policy as a
5 result of receiving this email, saying that he's
6 wanting to target people for assassination -- and
7 clearly he means talking about getting them fired,
8 I'm not saying he's trying to kill them -- because
9 they are a threat to your leadership and because
10 she's African-American? Did you report any of that
11 to Southwest Airlines?

12 A. No.

13 Q. Why not? You supported it. You didn't report
14 it because you supported it?

15 A. I didn't support it.

16 Q. Absolutely, ma'am. You got emails on this, you
17 didn't respond and say, No, no, we can't do stuff
18 like that. I have shown you half a dozen. Not one
19 word from you other than support and offering queso
20 dip. That is it.

21 MR. GREENFIELD: Objection, your Honor.
22 Counsel is just testifying.

23 THE COURT: Sustained.

24 BY MR. PRYOR:

25 Q. Not one thing did you do, right? Not one

1 thing?

2 MR. GREENFIELD: Objection, your Honor,
3 that is a compound question.

4 THE COURT: I think it is sufficiently
5 clear. He's asked the question. You can answer, if
6 you have knowledge.

7 THE WITNESS: I already said that I, at
8 some point, spoke to Brian and told him to stop
9 sending me stuff.

10 BY MR. PRYOR:

11 Q. Ma'am, what you told us was, without the
12 benefit of anything in writing, that you told him,
13 Don't be writing this stuff down, and then there is
14 more and then there is more.

15 And then there is some from Brett Nevarez and
16 Cuyler Thompson. You named them. Your whole team
17 is doing this and you never do a thing. You say,
18 I'm always telling them don't put that in writing or
19 that's not right, and yet they keep doing it.

20 MR. GREENFIELD: Objection, your Honor.
21 He continues to testify. He's misrepresenting the
22 evidence. If he has a question, he should just ask.

23 MR. PRYOR: It is a combination of her
24 evidence and I'm letting her comment on.

25 THE COURT: I will allow this one. You

1 can answer.

2 THE WITNESS: I don't --

3 BY MR. PRYOR:

4 Q. What was your answer?

5 A. I don't have control over other people's
6 actions and what they choose to email me or send me
7 or forward me.

8 Q. So all of this was done over your strenuous
9 objection that you have no record of, and they kept
10 doing it, kept -- by the way, kept including you on
11 the emails that you are saying, I told them not to
12 do and that it was wrong, and yet they keep sending
13 it to you. And you don't have any negative response
14 to them. That is what happened, right?

15 A. That is based off of what you -- what is
16 displayed here. There are a lot of people that I
17 wish I could have had them stop emailing me when I
18 was in that position and it wasn't an option.

19 Q. We are not talking about any people. We are
20 talking about your leadership team.

21 The team that you ran on a ticket with. The
22 team that is on your executive board meeting. The
23 ones you deal with all of the time.

24 Your inside core, Facebook, secret group.

25 MR. GREENFIELD: Objection, your Honor,

1 also mischaracterizing testimony. The testimony is
2 actually clear that --

3 THE COURT: Sustained.

4 MR. GREENFIELD: -- Mr. Talburt is not.

5 THE COURT: Sustained. Rephrase.

6 BY MR. PRYOR:

7 Q. You didn't do anything, did you? You don't
8 want to answer?

9 A. I'm sorry. I thought I have answered that.

10 Q. Let's look at exhibit -- did you think all of
11 these emails that were sent to personal addresses
12 would end up in court some day?

13 That wasn't the point -- that kind of defeats
14 the point of sending it to the personal emails,
15 right?

16 MR. GREENFIELD: Objection, your Honor,
17 calls for speculation. There hasn't been a single
18 email from Ms. Stone from a personal --

19 MR. PRYOR: Your Honor, speaking
20 objections --

21 THE COURT: If you get two or three words
22 in, then you are speaking and need a sidebar. I
23 will sustain that objection.

24 BY MR. PRYOR:

25 Q. She's speculating -- you have to speculate

1 about your own opinion as to why these were sent to
2 personal email addresses, ma'am.

3 THE COURT: Counsel, I didn't sustain it
4 on that basis. You haven't put the email into the
5 record yet.

6 MR. PRYOR: I'm sorry, Your Honor?

7 THE COURT: You haven't put the email into
8 the record yet. That was the basis I was thinking
9 of when I sustained the objection. You might want
10 to move for its admission first.

11 BY MR. PRYOR

12 Q. Okay. Well, the one we were just talking about
13 was sent to personal email addresses, Rocky
14 Mountain, Sonya Lacore's personal email address.

15 Did you see that? Do you see where it says
16 sonyalacore@gmail?

17 A. Yes.

18 Q. That is her personal email address, right?

19 A. Yes. I would assume so.

20 Q. And before, Rocky Mountain. That is the
21 personal email address of Mr. Hafner, right?

22 A. I don't know if that is the personal email
23 address of Mr. Hafner. I've already stated I'm not
24 sure whose personal email address that is.

25 MR. PRYOR: Let's look at Exhibit 29.

1 MR. GREENFIELD: Your Honor, may we have a
2 sidebar on 29?

3 THE COURT: On 29? Sure.

4 (Thereupon, the following proceedings were
5 had at sidebar:)

6 MR. GREENFIELD: 29 is literally just
7 Facebook posts. They are not tied to a company
8 email or anything like that. It is the definition
9 of hearsay.

10 THE COURT: Response.

11 MR. PRYOR: She's on it. She knows
12 exactly what it is. She can identify it. I have no
13 problem getting it in through her.

14 MR. GREENFIELD: It does not make it an
15 out-of-court statement that you are offering for the
16 truth of the matter asserted. And there is
17 several -- there is numerous --

18 THE COURT: I think the response needs to
19 ask her what it was, so I was inclined to overrule
20 the hearsay objection based on the facts.

21 MR. GREENFIELD: Okay.

22 MR. PRYOR: This is a post that is on her
23 core team group that she's testified about, and she
24 was on it, received it, and can identify it.

25 THE COURT: And that is why I'm inclined

1 to overrule the objection.

2 MR. GREENFIELD: And I don't want to have
3 to object again to this situation, but he keeps
4 referring to these as "her core team," things like
5 that. That is just not the case. He keeps trying
6 to identify a personal nature to these things that
7 are not owned by her.

8 MR. PRYOR: That is absolutely wrong.
9 She's answered the question. She knows what her
10 core team is.

11 MR. GREENFIELD: And that is not what she
12 said.

13 MR. PRYOR: Well, she's answered the
14 question.

15 MR. GREENFIELD: Not like that, though.

16 THE COURT: I think you can address that
17 on cross to the extent you think there is an
18 exploitation there.

19 MR. GREENFIELD: Sure.

20 (Thereupon, the sidebar was concluded and
21 the following proceedings were held in open
22 court:)

23 THE COURT: All right. I have overruled
24 the objection to No. 29. It is in evidence and we
25 can publish to the jury.

1 THE COURT: 29 is admitted.

2 (Thereupon, the document was admitted in
3 Evidence as Plaintiff's Exhibit 29.)

4 BY MR. PRYOR:

5 Q. In Exhibit No. 29, this -- these are some
6 posts -- let me show you the next two pages as
7 well -- some posts from your core team talking about
8 Mr. Glick.

9 It is not that page, it is the one before.

10 Let me try it this way: Do you recognize this
11 as being part of the secret Facebook page for your
12 core team?

13 A. I think so.

14 Q. Okay. And Mr. Nevarez and Mr. Talburt are
15 talking about, Click is getting agitated. I think
16 he may private message his way into big troubles for
17 himself.

18 And then Brian Talburt says, "We can only
19 hope."

20 And Mr. Click was someone that was -- had run
21 for office. And was he the one that was elected and
22 got kicked out and you were put in, or is that
23 someone else?

24 A. He was one of the officers that was removed,
25 yes.

1 Q. Okay. So someone who was an officer, but got
2 kicked out, and you got put in. Your team is
3 looking for a way to get him in trouble using
4 private messages, right?

5 A. I don't think they are looking to get him in
6 trouble. I think they are just wanting to be aware
7 of anything that he's sending that was harassment.

8 Q. Okay. Is that really -- it says, Thanks for
9 the screen shot. And then it says -- Brett Nevarez
10 says, "Anybody else get private messages from Click,
11 please screen shot and save for posterity. I think
12 he may private message his way into big troubles for
13 himself."

14 That is not your team plotting against yet
15 another union member to use social media to get them
16 in trouble? That is not what your team is doing on
17 your core team secret website?

18 A. I don't think they were plotting to get someone
19 in trouble, no.

20 Q. So you think they were doing good things, they
21 thought they were going to save it for prosperity,
22 they could send it to his wife, and they could put
23 it on a picture frame? Is that what they were
24 talking about?

25 A. That is not what I said.

1 Q. Well, you said you didn't think they were
2 plotting against him. I'm just trying to think,
3 what is -- if that is not plotting against him, what
4 is?

5 Can I have an answer?

6 A. Chris was very, very outspoken and there were
7 legal issues that he was involved in against the
8 union, active cases at that time. So anything
9 related to that, we --

10 Q. We what? We wanted to keep a record of, right?

11 A. I can't talk about anything that was
12 attorney-client privilege.

13 Q. Go ahead.

14 A. I don't have anything else to say, other than
15 Mr. Click had a lawsuit against the union at the
16 time of this post.

17 Q. Okay. Let me summarize what you have told us.
18 First you said, "No, they weren't doing this to get
19 him in trouble. They were just thinking he might
20 get himself in trouble."

21 Then when I read, well, wait a minute, what
22 about this, save for posterity, we can only hope,
23 then you decided, well, there are these legal
24 problems with Mr. Click, and so actually we were
25 gathering this information. Do you see how those

1 two things are different?

2 A. There were so many lawsuits that involved
3 Mr. Click, and I'm trying to get the time frames
4 straight in my mind between -- a short time frame
5 that he was involved in.

6 And --- there was still active lawsuits and I
7 didn't remember that when we first looked at this.

8 Q. Do you see the two different answers you have
9 given under oath to the same question?

10 A. I didn't give two different answers, I'm trying
11 to further explain based on remembering and looking
12 at the time frame.

13 Q. So you are explaining your memory, and your
14 memory was they weren't gathering information, and
15 then your memory became they are gathering
16 information?

17 A. No. I said I did not believe they were
18 gathering information to target them.

19 Q. Oh, let's go back to -- they were gathering
20 information to help him. There seems only to be a
21 couple of choices unless they just wanted souvenirs.

22 A. I have already stated that is not what I
23 thought.

24 Q. Which was it? Tell us what you thought. You
25 thought they were gathering the information to help

1 him or hurt him? How about that?

2 A. Neither.

3 Q. So they were gathering information, then, for
4 no reason at all?

5 A. No.

6 Q. By the way, the fact that Mr. Click had
7 lawsuits against his union, he had objections to
8 things you guys were doing, too. That doesn't allow
9 the union to target him, does it?

10 A. No.

11 Q. But you did?

12 A. No.

13 Q. By the way, your core secret team became public
14 at some point, didn't it?

15 A. Screen shots from it were made public, yes.

16 Q. Okay. So somebody took screen shots and it
17 became public what you guys were trying to do in
18 secret, correct?

19 A. Screen shots of the conversations happening in
20 the group were made public.

21 Q. Conversations you wanted to keep secret became
22 public?

23 A. Yes.

24 Q. And your team members, including yourself, on
25 these communications, referred to anybody that was

1 opposed to your union leadership as "haters,"
2 correct?

3 A. That was a term people used. I don't see
4 anything in front of me with that.

5 Q. No, I'm not -- if you want them, we can -- we
6 can gather as many as you would like, ma'am. You
7 issued a public apology for it, didn't you?

8 A. I issued a public apology for anybody that was
9 hurt by anything that came out in those screen
10 shots.

11 Q. Well, let's see how well you recall.

12 Your core team members on communications on
13 your secret website that you were involved in,
14 strings of conversations that you were on, referred
15 to union people that were opposed to your leadership
16 as "haters," true?

17 A. Yes.

18 Q. It referred to your opponents as "fucktards,"
19 correct?

20 A. No.

21 Q. Are you sure?

22 A. My recollection of that phrase being used was
23 not about an opponent.

24 Q. It was never used -- as a matter of fact,
25 Mr. Talburt bragged about it on your core team

1 website when he said he converted someone, that his
2 fucktard strategy must have worked. You don't
3 recall that?

4 A. I did not say that the word "fuckard" wasn't
5 used. I corrected the way you said it was used.

6 Q. Oh, what was the better use of "fucktard"?

7 A. You said it was about opposition and the
8 election. And he called another flight attendant a
9 "fucktard," based on my recollection.

10 Q. And your recollection isn't that he called the
11 opponents in general "fucktards" or that Mr. Nevarez
12 did?

13 A. No.

14 Q. And what about referring to your opponents as
15 "spewing bullshit"?

16 A. I don't recall if that was said --

17 Q. That's not the kind of thing you recall because
18 there was so much "spewing bullshit" that you
19 wouldn't remember? That would stick out in my mind
20 unless it was common place that all kinds of things
21 were being said like that.

22 MR. McKEEBY: Objection, asked and
23 answered.

24 THE COURT: Sustained.

25

1 BY MR. PRYOR:

2 Q. Did you, at any time, with any of your core
3 team members, on your secret Facebook
4 communications, ever reprimand anyone for the
5 language that they used and the characterizations
6 that they made and the actions they proposed?

7 A. Not to my recollection.

8 Q. And your administration negotiated a Collective
9 Bargaining Agreement?

10 A. There was a negotiating team that negotiated a
11 Collective Bargaining Agreement under my
12 administration.

13 Q. There was a what?

14 A. There was a negotiating team that negotiated a
15 Collective Bargaining Agreement under my
16 administration.

17 Q. Okay. Under your administration, this
18 negotiating team, who was the head of the
19 negotiating team?

20 A. I was.

21 Q. And did you propose a Collective Bargaining
22 Agreement to your members?

23 A. The executive board sent a Collective
24 Bargaining Agreement out to our members.

25 Q. And was it accepted or rejected by your

1 membership?

2 A. The first one was rejected.

3 Q. Was it a close vote?

4 A. No.

5 Q. And, in fact, your members rejected it by
6 87 percent, correct?

7 A. Yes.

8 Q. And there was the feeling that your membership
9 was too close with management of Southwest Airlines,
10 in order to protect your team, as opposed to a good
11 Collective Bargaining Agreement?

12 Do you want me to rephrase it?

13 A. I didn't -- I didn't understand the question.

14 Q. Okay. I'll try it again.

15 The thinking was, that your team was too
16 concerned about people like Ms. Corless or
17 Mr. Casper, people that were opposed to your
18 leadership, and that you were more interested in
19 working with management at Southwest Airlines to
20 defeat your opponents than to negotiate a good
21 Collective Bargaining Agreement?

22 A. No.

23 MR. GREENFIELD: Objection, your Honor,
24 calls for speculation. He's asking about the
25 thinking.

1 THE COURT: I will sustain that.

2 BY MR. PRYOR:

3 Q. And as a result, there was a recall petition?

4 A. As a result of the failed tentative agreement,
5 yes.

6 Q. I'm sorry?

7 A. As a result of the failed tentative agreement,
8 yes.

9 Q. Okay. So a bunch of flight attendants wanted
10 to recall you. I guess they didn't have a reason?
11 It wasn't because you were too cozy with management?

12 A. There was a reason --

13 MR. GREENFIELD: Objection, your Honor,
14 same, speculation.

15 THE COURT: Sustained.

16 BY MR. PRYOR:

17 Q. Let me rephrase.

18 There was a recall petition after your failed
19 Collective Bargaining Agreement, correct?

20 A. Yes.

21 MR. PRYOR: Let's look at Exhibit 30.

22 I move for the admission of Exhibit 30.
23 I'm sorry.

24 THE COURT: Okay, 30. Objection -- same
25 objections as this morning? From Union, none from

1 Southwest?

2 MS. GREEN: Give me one moment, your
3 Honor.

4 Yes, your Honor.

5 THE COURT: All right. I will overrule
6 those and allow you to publish Exhibit No. 30.

7 (The referred-to document was admitted in
8 Evidence as Plaintiff's Exhibit 30.)

9 BY MR. PRYOR:

10 Q. Okay. And this is a form of the recall
11 petition, ma'am, Exhibit 30?

12 A. Yes. It appears to be.

13 Q. And the people that they want to recall are
14 Audrey Stone, president; first vice president, Todd
15 Gage; second vice president, Brett Nevarez;
16 recording secretary, Kyler Thompson; financial
17 secretary, John Perri; and it looks like member at
18 large, Sam Wilkins; member at large, Crystal Riven;
19 and DEBM, Andrea Gannet.

20 And then the other names on there.

21 Is that correct?

22 A. Yes.

23 Q. By the way, what is a DEBM?

24 A. Domicile Executive Board Member.

25 Q. And that is someone that is voted locally in

1 the Dallas area to represent the local and some
2 board?

3 A. Dallas would be one example. Every domicile
4 has a DEBM representing them on the executive board.

5 Q. Was Crystal for the Dallas area?

6 A. No.

7 Q. Who was Dallas, do you recall?

8 A. B.R. Ricks.

9 Q. Who?

10 A. B.R. Ricks.

11 Q. Did you ever remove a DEBM from the Dallas
12 area?

13 A. The executive board did.

14 Q. And were you on the executive board?

15 A. I was. But as the chair of the meeting, I did
16 not vote unless there was a tie.

17 Q. And this elected Dallas DEBM was removed and
18 someone else was put in, correct?

19 A. Correct.

20 Q. Was that DEBM ever reinstated?

21 A. Yes.

22 Q. And so, in fact, what the board did was, they
23 took an elected official, someone else that is in
24 Charlene's area, and kick them out, because they
25 don't like them, said, came up with an excuse, and

1 that excuse turned out to be false and they were put
2 back, is that what happened?

3 A. That is not correct.

4 Q. It wasn't an excuse?

5 A. No.

6 Q. Did their reason turn out to be rejected?

7 A. No. The reason that he was reinstated was the
8 process by which it was done.

9 MR. PRYOR: Let's look at Exhibit 22-0.

10 MR. HILL: Repeat that, please, Bobby.

11 MR. PRYOR: I'm sorry?

12 MR. HILL: Repeat that, please.

13 MR. PRYOR: 22-0. And, Your Honor, she's
14 not on this document. And I'm going to ask if she's
15 familiar with it. I can cover.

16 THE COURT: We will keep the jury screens
17 muted. What document are you talking about?

18 MR. PRYOR: 22-0.

19 THE COURT: Document 22, page 0?

20 MR. PRYOR: 22-0, as in the letter "O."

21 We have A through X, I think, on 22. And
22 this is 22-0. And, actually, don't publish it yet.

23 MR. GREENFIELD: Do you have the page
24 numbers for 22? Or is this in addition?

25 MR. PRYOR: 7470.

1 MR. GREENFIELD: 7470.

2 BY MR. PRYOR

3 Q. I'm just going to ask you if you are familiar
4 with this

5 MR. McKEEBY: Your Honor, we needed a
6 limiting instruction on this document.

7 MR. GREENFIELD: Is this before the jury
8 right now?

9 THE COURT: It is not.

10 BY MR. PRYOR:

11 Q. Ma'am, are you familiar with trial Exhibit 22-0
12 or the facts that are discussed in there?

13 A. I am not familiar with this document at all,
14 no.

15 Q. Let me -- I won't offer it as an exhibit at
16 this time.

17 But did you have conversations with Naomi
18 Hudson informing her about the recall petition?

19 A. Yes.

20 Q. And why were you having discussions with
21 Southwest Airlines about the recall petition?

22 A. Naomi Hudson was the lead negotiator for
23 Southwest at that time. We were having regular
24 discussions. The tentative agreement had just
25 failed, and it was part of a conversation regarding

1 us regrouping, the negotiating team, and everything
2 that was going on following that rejected tentative
3 agreement, of which she had been the lead for on the
4 Southwest side.

5 BY MR. PRYOR:

6 Q. You weren't seeking her assistance in keeping
7 your team intact, were you?

8 A. No.

9 Q. And did you tell her you would continue to keep
10 her informed of the inner workings of your union?

11 A. No. Not -- it wasn't about the inner workings,
12 it was about the kind of reset that both teams were
13 doing following the rejected tentative agreement.

14 Q. Did you represent Brett Nevarez in a mandatory
15 meeting?

16 A. Yes.

17 Q. What was he charged with?

18 A. He wasn't charged with anything.

19 Q. What was he called in to the mandatory meeting
20 for?

21 A. He was called in to have a discussion about a
22 post he had made on social media.

23 Q. And what were the posts?

24 A. He was answering questions and speaking about
25 one of the lawsuits that the union was engaged in

1 with the former officers that were removed.

2 Q. And you defended him and said he was engaged in
3 union activity, correct?

4 A. I didn't even defend him. I was there as his
5 representative. They had told him advance no
6 discipline would be issued and it was just to have a
7 conversation.

8 Q. In that conversation you said he was engaged in
9 protected union activity?

10 A. No. We stated that what he had posted was
11 public fact because the lawsuits were public in
12 nature. And Southwest Airlines agreed that there
13 was nothing in violation of any of the work rules,
14 but cautioned him to be careful to not say anything
15 that could be construed in violation or something
16 that wasn't public information.

17 Q. And you never said he was engaged in protected
18 union activity, correct?

19 A. I don't recall if I used those specific
20 phrases.

21 Q. Well, I'm not asking for a direct quote.

22 But did you or did you not tell Southwest
23 Airlines he was engaged in union activity and they
24 shouldn't be involved in that?

25 A. I don't -- I don't remember using those words.

1 Especially because we knew in advance that there was
2 not going to be any discipline issued and it was
3 just a conversation.

4 Q. A conversation or not, you told them during
5 that meeting what he was doing was protected union
6 activity.

7 MR. GREENFIELD: Objection, your Honor,
8 asked and answered, and he's testifying.

9 THE COURT: Sustained.

10 BY MR. PRYOR:

11 Q. So what about Mr. Talburt, did you represent
12 him in a hearing?

13 A. I assisted in his representation in a hearing.

14 Q. I'm sorry?

15 A. I assisted in his representation in a hearing.

16 Q. And when you assisted Mr. Talburt, did you say
17 he was engaged in protected union activity?

18 A. I don't remember if I used those exact words.

19 Q. Okay. When we talked about not being
20 evasive -- I'm not trying to quote you, I wasn't
21 there. But the import of one of the things you told
22 them was Mr. Talburt was engaged in protected union
23 activity?

24 A. For Talburt, that theme was probably discussed
25 in his meeting. I just --

1 Q. Given that you are now saying yes to that, why
2 were you playing the game of, I don't recall those
3 exact words? Is that an evasive answer?

4 A. No, sir. I feel like you are trying to get me
5 to say that I made that statement to Southwest
6 numerous times. And I cannot go back and tell you
7 what words I used in any of those meetings that took
8 place years ago.

9 Q. I absolutely don't deny that you said it all of
10 the time. If that is what you think I'm trying to
11 get you to not say.

12 A. No, sir, that is not what I said.

13 Q. And what had Mr. Talburt done that you were
14 defending him for?

15 A. Um, it was, as part of his appeal process, on a
16 grievance following his termination for social
17 media.

18 Q. And what had he done on social media that got
19 him terminated?

20 A. He had called another flight attendant a
21 "fucktard."

22 Q. And he was reinstated?

23 A. He was.

24 MR. McKEEBY: Your Honor --

25 Q. And what about Bill --

1 THE COURT: Hold on.

2 MR. McKEEBY: Objection, relevance.

3 THE COURT: Sidebar.

4 (Thereupon, the following proceedings were
5 had at sidebar:)

6 MR. McKEEBY: Your Honor, he ran roughshod
7 over your motion in limine ruling in opening
8 statements and I stood there and took it. And here
9 he is doing it again here.

10 The discipline of other employees is not
11 relevant and I shouldn't have to get witnesses up to
12 testify about it. You have already ruled on that.
13 And objection, relevance, prejudice.

14 MR. PRYOR: I was not running roughshod
15 over your motion in limine. I am absolutely within
16 bounds. She was involved in these meetings. She
17 took positions protecting her team members. I have
18 shown she didn't take that those actions for others.
19 It goes right into the theory of our case and it is
20 relevant.

21 MR. McKEEBY: That part is fine.

22 MR. PRYOR: Where did I go over?

23 MR. McKEEBY: You went over when you
24 talked about what the ultimate disciplines --

25 THE COURT: Exactly, exactly. That's

1 where you went over.

2 MR. PRYOR: But she opened the door when
3 she said he was terminated. And, in fact, he got
4 reinstated. He doesn't have to sign a last-chance
5 agreement -- not that I'm going to be able to say
6 that yet. So I need to be able to respond to the
7 answers she gave.

8 MR. GREENFIELD: And, Your Honor, I have a
9 404(b) objection. She's talking about past
10 practices to fall in line with what she was doing
11 with other people. She's talking about
12 representation of one individual --

13 No, they're --

14 MR. GREENFIELD: -- every single
15 individual at 15,000 --

16 THE COURT: I think you can ask this
17 question and no farther. I think as of now, she's
18 only opened the door to terminated but then
19 reinstated.

20 MR. PRYOR: Fair enough.

21 THE COURT: Got it?

22 (Thereupon, the sidebar was concluded and
23 the following proceedings were held in open
24 court:)

25 THE COURT: Okay. You can reask that

1 question we discussed.

2 BY MR. PRYOR:

3 Q. Mr. Talburt was reinstated, correct?

4 A. Yes.

5 Q. And he was represented in part by you, who, at
6 the time, you were negotiating a union contract with
7 Southwest Airlines, right?

8 A. Yes.

9 Q. And Bill Holcomb, someone else was on your
10 team, was charged with social media policy, and he
11 was someone that you took care of while you were
12 negotiating the CBA agreement?

13 A. I -- I never -- what do you mean "took care
14 of"? I never represented Bill.

15 Q. Well, by "took care of," he was charged with
16 something pretty serious, typically at Southwest
17 Airlines and passenger shaming, wasn't he?

18 A. I don't recall what Bill's social media
19 complaint was. I don't --

20 Q. I didn't say social media. I said passenger
21 shaming.

22 A. I don't recall Bill having an issue with
23 passenger shaming.

24 Q. Okay. Maybe it is someone else. If I'm wrong,
25 I apologize.

1 But did you or did you not meet with Naomi
2 Hudson at a time when Bill Holcomb, on your
3 negotiating team, was charged with violation of
4 social media policy? And you asked Naomi Hudson to
5 get rid of that charge and she refused. And you
6 went to Mike Hafner and asked him to, and he did.

7 A. No. That is not an accurate representation.

8 Q. You didn't do that?

9 A. No.

10 Q. You didn't meet with Mike Hafner and say, "We
11 need these social media policy violations to go
12 away," and within 24 hours, they went away?

13 A. That is not what you stated earlier.

14 Q. Tell me, did you or did you not talk to
15 Mr. Hafner about social media policy employees that
16 were charged --

17 A. I did.

18 Q. -- and after you met with him, at a time when
19 you are negotiating the CBA, within 24 hours, maybe
20 48, those charges are gone?

21 MR. GREENFIELD: Objection, your Honor,
22 compound question.

23 THE COURT: Sustained.

24 MR. McKEEBY: My objection is to relevance
25 based on what we just discussed. He's talking

1 about -- well.

2 THE COURT: I will sustain that as well.

3 BY MR. PRYOR:

4 Q. Ma'am, did you have a conversation with
5 Mr. Hafner about getting social media charges
6 removed from some of your team members at a time you
7 were negotiating the CBA?

8 A. I had a meeting with Mike Hafner to discuss
9 getting discipline removed for all of the flight
10 attendants that currently had discipline on their
11 record for a social media violation. One of whom
12 was a team member of mine at the time. Some who had
13 no involvement with union. Some that I didn't know.
14 And some that were non-members of the union.

15 Q. And one of them was Bill Holcomb?

16 A. Yes.

17 Q. And within 48 hours, that was resolved?

18 MR. McKEEBY: Your Honor, same objection.

19 THE COURT: Sustained. Counsel, please
20 refrain.

21 MR. PRYOR: I apologize, I'm not
22 understanding. Can I approach?

23 THE COURT: You bet.

24 (Thereupon, the following proceedings were
25 had at sidebar:)

1 MR. PRYOR: She gets the charges dismissed
2 and I can't discuss that? If I can't, I understand.
3 But that is not -- I'm missing the distinction. I'm
4 not talking about a punishment they received. They
5 got off completely.

6 THE COURT: So I think this was
7 Southwest's limine point one, which I granted. So
8 Southwest handles this -- I mean, y'all redirected
9 it to say, no, what we are really looking at is
10 union fair representation, right? So what did she
11 say to Southwest? Sure, that is fair game. What
12 did Southwest do? Those are the questions you keep
13 asking and those are the subject of limine point
14 one.

15 MR. PRYOR: Okay. Then, you are right. I
16 did ask that question.

17 I believe it is relevant -- and it doesn't
18 matter if I believe it is relevant. If I thought
19 you had ruled I couldn't do that, I won't do it.

20 But she got her team members -- she
21 treated them differently than other people. She
22 went in and met with Hafner and got Holcomb and
23 Talburt charges dismissed. That's what she -- now,
24 she keeps saying --

25 MR. MCKEEBY: Everything is fine until the

1 charge is dismissed; correct?

2 MR. GREENFIELD: Correct. She already
3 testified --

4 THE COURT: Yeah, until the outcome of
5 the -- Southwest decided, right? You can ask what
6 she did on their behalf. That is not the subject
7 of -- what is the subject is, what is Southwest's
8 ruling, then, because we don't have comparators.
9 That's not what --

10 MR. PRYOR: And so Southwest colluding
11 with her in order to get a better Collective
12 Bargaining Agreement doesn't show that she's not
13 adequately representing my client?

14 THE COURT: Well, you got plenty of things
15 to talk about. It is just the last question that
16 wasn't --

17 MR. PRYOR: All right. I think I
18 understand it now. I won't violate it.

19 THE COURT: Understood. Thank you.

20 (Thereupon, the sidebar was concluded and
21 the following proceedings were held in open
22 court:)

23 THE COURT: Okay. You can ask a new
24 question.

25

1 BY MR. PRYOR:

2 Q. Did your core team sexually harass someone
3 because they were gay?

4 A. No.

5 Q. You don't have any recollection of that? You
6 don't recall defending them?

7 A. Someone for -- no. Somebody sexually harassing
8 somebody because they were gay? No, I don't recall
9 that.

10 Q. I don't know if you're trying to split hairs
11 with me, but it would seem pretty easy to me, either
12 you did or you didn't sexually harass --

13 A. I don't -- I don't recall that.

14 Q. You don't recall it? Did it happen --
15 something -- I remember I didn't murder somebody at
16 lunch. Do you remember whether or not your team
17 members sexually harassed someone because they were
18 gay on your core team member site?

19 A. One of my team members made a comment about
20 another flight attendant. He was investigated. But
21 the flight attendant that made the comment was gay.
22 So I don't -- so no, not to my knowledge.

23 Q. And so what was the comment, then? What was
24 the comment they were investigated for?

25 A. I don't recall the details of the comment. It

1 was something -- it was something not nice about
2 another flight attendant. I think it may have been
3 about their appearance.

4 Q. And I'm sure that you took action against that
5 core team member that said something not nice about
6 the flight attendant? Oh, no, wait, you didn't,
7 right? Oh, no, you defended them?

8 A. Is that a question?

9 Q. Yes. Did you defend them as opposed to
10 reprimand them, how about that?

11 A. I defended all of the flight attendants that
12 had social media violations at that time.

13 MR. PRYOR: Exhibit 23. We move for its
14 admission. 23.

15 THE COURT: 23, I have Union objections
16 from this morning.

17 MR. McKEEBY: No objection.

18 THE COURT: No from Southwest. Okay.

19 Anything else to add to Union from this
20 morning?

21 Okay. I will overrule the Union
22 objections and we can publish 23.

23 (The referred-to document was admitted in
24 Evidence as Plaintiff's Exhibit 23.)
25

1 BY MR. PRYOR:

2 Q. Ma'am, is this one of your -- Exhibit 23 one of
3 your president's messages to flight attendants?

4 A. Yes.

5 Q. And I just want to make sure I get this into
6 evidence.

7 You acknowledge that the contract you
8 negotiated was -- it missed the mark, and as team
9 leader you own that, and that you were the lead
10 negotiator? True?

11 A. Yes.

12 MR. PRYOR: Let's look at -- I think it is
13 134. Let me check, before you put it up.

14 Q. Ma'am --

15 MR. PRYOR: I'm not offering it at this
16 point.

17 BY MR. PRYOR:

18 Q. For the recall petition, you were president at
19 the time, correct?

20 A. Yes.

21 Q. The recall verification committee, who
22 appointed the recall verification committee?

23 A. The executive board.

24 Q. The executive board includes Audrey Stone, one
25 of the people to be recalled, correct?

1 A. Yes.

2 Q. And it includes Brett Nevarez, one of the
3 people to be recalled, correct?

4 A. Yes.

5 Q. And it included John Parrott, one of the people
6 to be recalled, correct?

7 A. Yes.

8 MR. PRYOR: 52. Let's look at Trial
9 Exhibit 52. We will move for its admission.

10 THE COURT: 52? I don't have any
11 objections to 52.

12 MR. McKEEBY: It wasn't listed, but I
13 don't think I have any objection.

14 MR. PRYOR: It wasn't in our report last
15 night.

16 THE COURT: It is not on the last night
17 list. I can call a break and see if they have an
18 objection at the break. How about that?

19 Okay. I'm going to call the first
20 afternoon break. We will do a ten-minute break.
21 We'll see you back here at 2:38. Same three
22 instructions: Only talk to your fellow jurors and
23 court personnel, just not about the case; don't talk
24 to anyone else; and don't do any research.

25 All rise for the jury.

1 (The jurors exited the courtroom.)

2 THE COURT: Okay. Same instructions to
3 you. You can take your break, but you just can't
4 talk to anyone about the case.

5 Any issues we need to talk about? So
6 y'all look at 52, and then we will come back a few
7 minutes early and then see if y'all have objections
8 to 52. Sounds good. See you in a minute.

9

10 MR. GREENFIELD: What time, Judge?

11 THE COURT: So we are back here at maybe
12 2:36. Sound good?

13 MR. GREENFIELD: Thank you.

14 THE COURT: See you in a few.

15 (Recess.)

16 THE COURT SECURITY OFFICER: All rise.

17 THE COURT: Is there anything to say about
18 52?

19 MR. McKEEBY: No objection.

20 No objection. Yeah, no objection. There
21 is another issue, but it is not -- we can handle it
22 later.

23 THE COURT: Okay. That works. Okay.

24 Let's bring in the jury.

25 (The jurors entered the courtroom.)

1 THE COURT: Thank you. You can be seated.
2 Okay. I have admitted Exhibit 52 into
3 evidence.

4 And you can proceed, Mr. Pryor.

5 (The referred-to document was admitted in
6 Evidence as Plaintiff's Exhibit 52.)

7 BY MR. PRYOR:

8 Q. Now, I'm looking at Exhibit 52. It is a
9 January 10, January 12 -- it will be up on the
10 screen in a minute, I hope -- TWU Local 556
11 executive board meeting synopsis.

12 Do you see that?

13 A. Yes, sir.

14 Q. And you were at that meeting?

15 A. Yes.

16 MR. PRYOR: And let's go to the next page.

17 BY MR. PRYOR:

18 Q. Under Working Women's Committee, at the bottom.
19 Do you see it?

20 A. Yes.

21 Q. Lori worked with Working Women's Committee
22 Chair, Jessica Parker, on coordination of meetings
23 and events during the Women's March on Washington on
24 January 21. Lori procured a TWU Local 556 WWC
25 banner that will be used at the march and future

1 events.

2 And is that what happened?

3 A. Yes.

4 Q. Did the banner say "Southwest Airlines" on it?

5 A. Yes. I believe it said the "Union of Southwest
6 Flight Attendants."

7 MR. PRYOR: Your Honor, can I approach?

8 THE COURT: Yes.

9 (Thereupon, the following proceedings were
10 had at sidebar:)

11 MR. PRYOR: I'm going to ask if Southwest
12 Airlines ever took any action against them for using
13 Southwest Airlines's name on that banner and at the
14 march. And I think I can, but I'm a little worried
15 because I truly don't want to do what I'm not
16 supposed to.

17 THE COURT: Sure. And it is not another
18 employee, an employee discipline situation, so I
19 don't think it is in limine point 1.

20 MR. McKEEBY: Exactly. No, I think that
21 is a fair question.

22 THE COURT: Thank you for asking. This
23 time is on me.

24 MR. PRYOR: And I hope I can say it right.

25 (Thereupon, the sidebar was concluded and

1 the following proceedings were held in open
2 court:)

3 THE COURT: Okay. You can ask that
4 question that we were thinking of.

5 MR. PRYOR: Thank you, Your Honor.

6 BY MR. PRYOR:

7 Q. Ma'am, to your knowledge, did Southwest
8 Airlines, at any time, take any action against
9 anyone with the union for utilizing Southwest
10 Airlines's name at that march?

11 A. No, not to my knowledge.

12 MR. PRYOR: Let's look at Exhibit 53.

13 Your Honor, we move for the admission of
14 Exhibit 53.

15 MR. McKEEBY: No objection from Southwest.

16 THE COURT: Okay. I have yours from this
17 morning.

18 MR. GREENFIELD: And if we can approach on
19 that.

20 THE COURT: You can approach on that.

21 (Thereupon, the following proceedings were
22 had at sidebar:)

23 MR. PRYOR: I was worried I wasn't going
24 to get my milage in today.

25 MR. GREENFIELD: I was too.

1 THE COURT: Okay. Argument?

2 MR. GREENFIELD: Yes. First of all, your
3 Honor, the document is altered. It is highlighted.
4 We don't know where it came from. It is incomplete.
5 It is a partial list of potential sponsors. We
6 don't know the veracity of who the sponsors or where
7 the document came from.

8 It is just wholly inappropriate. It is a
9 piece of evidence we don't know where it came from,
10 it has been altered, and it is a partial document.

11 THE COURT: You address those.

12 MR. PRYOR: I don't know what he means
13 about authored. This --

14 MR. GREENFIELD: It's got, like, purple
15 highlighting --

16 MR. PRYOR: Oh, that --

17 MR. GREENFIELD: -- and yellow highlighter
18 on it.

19 MR. PRYOR: I'll have to look at it.

20 MR. GREENFIELD: Well, highlighting
21 Planned Parenthood specifically, which again, we
22 think is just intended to inflame the jury.

23 MR. PRYOR: Or intended to show them what
24 I want to talk about. But I don't -- frankly don't
25 know what is on the exhibit other than it is a

1 document I think that she has recognized and can
2 identify as the document that shows who the sponsors
3 of the Women's March was. That is the reason I'm
4 offering it. I can limit it to to the first page, I
5 guess, although there is --

6 MR. GREENFIELD: That is the problem, it
7 is a partial document. It is just one page showing
8 a handful of the sponsors of the --

9 MR. PRYOR: It shows the premier sponsors.
10 There are two premier sponsors.

11 THE COURT: You can ask her that.

12 MR. PRYOR: Okay.

13 THE COURT: And if she doesn't know, you
14 can use it to refresh her recollection without it
15 coming into evidence. But I do have concerns, given
16 the alterations of the --

17 MR. PRYOR: Fair enough. Absolutely.

18 THE COURT: So you have got a path
19 forward.

20 MR. PRYOR: Okay.

21 THE COURT: Any other concerns?

22 MR. McKEEBY: No. Well, I will go back
23 and look at the document.

24 MR. PRYOR: I may look at it, too.

25 THE COURT: Got it.

1 (Thereupon, the sidebar was concluded and
2 the following proceedings were held in open
3 court:)

4 MR. PRYOR: Can I get a copy of
5 Exhibit 53?

6 MR. PRYOR: May I approach the witness,
7 your Honor?

8 THE COURT: You may.

9 BY MR. PRYOR:

10 Q. Ma'am, can you identify the first page of
11 Exhibit 53?

12 A. It looks like it is --

13 Q. Well, hang on. I want to be careful here.

14 Is this a document that you have seen before,
15 how about that?

16 A. No.

17 Q. Is this is a document that is consistent with
18 your recollection regarding who the sponsors of the
19 Women's March was? Were? Are? It is one of those.

20 A. No. There is names on here I have not even
21 heard of.

22 Q. Well, does it refresh your recollection as to
23 Planned Parenthood? Or do you need it refreshed?

24 A. I'm aware that Planned Parenthood had a part in
25 the march, yes.

1 Q. Well, there is having a part in the march and
2 then there is the premier sponsor, the major
3 sponsor.

4 Are you aware that Planned Parenthood was one
5 of the two premier sponsors of the Women's March?

6 MR. GREENFIELD: Objection, your Honor.
7 He's testifying if she's aware that they were.
8 There's been --

9 THE COURT: Sustained. Hold on. No
10 speaking objections. Sustained. You can rephrase
11 it.

12 BY MR. PRYOR:

13 Q. Ma'am, do you know who the premier sponsors of
14 the Women's March were?

15 A. According to this, Planned Parenthood and
16 something called NRDC.

17 Q. As you sit here today, you are telling us that
18 you sent Local 556 to a march without knowing who
19 the premier sponsors were?

20 A. I didn't -- I did not know -- I'm still not
21 familiar with who NRDC is.

22 Q. Let's try Planned Parenthood.
23 Do you know who they are?

24 A. Yes.

25 Q. And you knew when you went to the Women's March

1 that Planned Parenthood was one of the major
2 sponsors of the march?

3 A. Yes.

4 Q. Do you know what a "pink out" is?

5 A. No.

6 Q. You never heard of a "pink out" in connection
7 with the Women's March on Southwest Airlines's
8 flights?

9 A. Yes.

10 Q. Tell us what it is.

11 A. I believe it is referring to, there were flight
12 attendants that changed the lights on our newer
13 aircraft that have different colored light settings
14 and changed them to pink on some of the flights
15 going in and out of the Baltimore/Washington area.

16 Q. And is that consistent with Southwest
17 Airlines's policies, that the flight attendants can
18 make decisions to choose a political cause and do
19 something on the plane for it?

20 A. No.

21 Q. And so you believe they violated policy?

22 A. The flight attendants that did that? Yes.

23 Q. Do you know if anyone lost their job?

24 A. I don't know. I don't believe so.

25 Q. I was going to say, don't you think you would

1 have heard if someone lost their job?

2 A. I don't think so.

3 Q. You don't think so, you would have heard, or
4 you don't think so, no one lost their job?

5 A. I don't think anyone lost their job.

6 Q. Okay. So far, the only person that lost their
7 job that we have talked about is Charlene Carter,
8 right?

9 A. That lost their job at Southwest Airlines?

10 Q. That we have talked about today. These
11 employees that --

12 THE COURT: Counsel, will you approach?

13 MR. PRYOR: Sorry.

14 (Thereupon, the following proceedings were
15 had at sidebar:)

16 MR. PRYOR: I made it about 20 minutes --

17 THE COURT: I give up. I'm just -- I'm
18 done.

19 MR. GREENFIELD: Now we are in the thick
20 of it. Now she's got to talk about it.

21 MR. McKEEBY: I don't think she has to
22 talk about it.

23 MR. GREENFIELD: She does.

24 THE COURT: How about I go tell the jury
25 that I have said, based on my prior rulings in this

1 case, that how Southwest disciplined other employees
2 is not relevant to this okay case?

3 MR. PRYOR: Yes, your Honor, I deserve
4 that.

5 THE COURT: Okay.

6 (Thereupon, the sidebar was concluded and
7 the following proceedings were held in open
8 court:)

9 THE COURT: Okay. So I will tell the
10 jury, I have had a prior ruling in this case that
11 how Southwest treated other people is not relevant
12 to this employment lawsuit. So I have cut that
13 segment of the world out, so y'all don't have to
14 hear about how they treated anyone else.

15 With that, you can ask a new question, if
16 you have one.

17 MR. PRYOR: Thanks, Your Honor.

18 And I apologize for asking the question.
19 I understand that ruling, your Honor. I appreciate
20 that.

21 BY MR. PRYOR:

22 Q. Okay. Let's go to Exhibit 56.

23 And we move for the introduction of Exhibit 56.

24 THE COURT: All right. I have morning
25 objections from the union and none from Southwest.

1 I know what I'm going to rule on this. Need a
2 sidebar or are you okay?

3 MR. GREENFIELD: If you already have your
4 decision made, Your Honor, I don't think we need to.

5 THE COURT: Pictures aren't hearsay.
6 There is one exception, but it is not in this case.
7 So I will allow them into evidence and 56 can come
8 in over the objection.

9 (The referred-to document was admitted in
10 Evidence as Plaintiff's Exhibit 56.)

11 BY MR. PRYOR:

12 Q. Let's look at AP -- page AP31.

13 Well, first of all, let's look on the first
14 page.

15 Exhibit 56, these are some pictures from some
16 or all of the people that attended the Working
17 Women's March in Washington DC?

18 A. No.

19 Q. What is it?

20 A. It is a photograph of the people that attended
21 the TWU Local 556 Working Women's Committee Meeting
22 held in conjunction with TWU International in DC.

23 Q. Okay. And for that meeting up there in
24 conjunction with this march, the union paid for all
25 of these people to go up there, right?

1 A. No. I believe all of the flight attendants
2 volunteered their time for that meeting, with the
3 exception of me, and I was on a salary as part of my
4 position.

5 Q. What about the hotels and airfare?

6 A. The airfare was provided by Southwest Airlines,
7 per our Collective Bargaining Agreement, that says
8 Southwest will provide travel for union business.
9 And the hotels were paid for by the union out of the
10 Working Women's Committee budget.

11 Q. It was paid for by the union?

12 A. The hotels, yes.

13 Q. And I'm missing -- you are just going to have
14 to pull that closer to your mouth for me. I
15 couldn't hear the last part. It was paid for by the
16 union, what?

17 A. The hotels were paid for by the union out of
18 the Working Women's Committee meeting -- Working
19 Women's Committee budget.

20 Q. And who funded that budget?

21 A. Budgets were funded through union dues.

22 Q. So in other words, the union paid for it?

23 A. Yes.

24 Q. Okay. And by the way, it says on that banner
25 "Southwest Airlines," right?

1 A. Yes. Our logo always includes that.

2 Q. And that was the banner that was carried in the
3 March?

4 A. Yes.

5 Q. Okay.

6 MR. PRYOR: Let's look at AP31.

7 BY MR. PRYOR:

8 Q. Are you in this picture?

9 A. Yes.

10 Q. You are part of the march?

11 A. Yes. I was there for part of the march.

12 Q. Okay. Let's look at 32.

13 And under -- by the way, these are Facebook
14 posts on, what, the union's Facebook page?

15 A. Yes, part of it is. And then it looks like
16 someone shared the post from the Union's Facebook
17 page.

18 Q. By the way, the Union Facebook page, you can't
19 put comments on?

20 A. That is correct. It was a one-sided
21 communication avenue.

22 Q. And this is a picture posted on the Union
23 Facebook page about the march that says, My body, my
24 choice, correct?

25 A. Yes.

1 Q. Let's look at 43, I think -- not 43, 49. Look
2 at 49.

3 And this, again, is on the Union Facebook page
4 with pictures from the march and pictures of flight
5 attendants in their uniforms on a Southwest Airlines
6 flight, correct?

7 A. I'm assuming so. I can't tell -- this document
8 doesn't have a header like the first one did that
9 shows where it was posted.

10 Q. So you are questioning as to whether or not
11 it's on some other social media site or the union?

12 A. Right. I just -- I just can't determine that.
13 It just uploads. It doesn't show where it is being
14 displayed.

15 Q. Okay. Someone is posting pictures of people in
16 Southwest Airlines's uniforms at the time of the
17 march, either a few days before or a few days after,
18 along with pictures of people at the Women's March,
19 true?

20 MR. GREENFIELD: Objection, your Honor,
21 lack of foundation.

22 THE WITNESS: Yes.

23 MR. GREENFIELD: We don't know where these
24 pictures came from, who posted them.

25 THE COURT: I will allow it. I will allow

1 it. She can answer if she has knowledge.

2 BY MR. PRYOR:

3 Q. Your answer was yes, ma'am?

4 A. That they were posted somewhere, yes.

5 Q. I understand you are not sure where they were
6 posted, at least this picture.

7 Now, as a result of this, you received
8 communications on Audrey Stone TWU Facebook page,
9 you received a Facebook message from Charlene
10 Carter?

11 A. At the time of the March, I do not believe my
12 Facebook was designated Audrey Stone TWU. It had
13 been at one point in the past. I received messages
14 from Charlene Carter shortly following this via
15 instant messenger on Facebook.

16 Q. And it was to a Facebook page that was Audrey
17 Stone TWU, correct?

18 A. No. That is what I just said, I do not believe
19 it was labeled Audrey Stone TWU at the point that
20 she communicated with me following the march, that
21 it was just Audrey Stone.

22 Q. Would you be surprised that you didn't change
23 it until after the complaint you filed against
24 Charlene?

25 A. I don't remember when I changed it.

1 Q. You can swear under oath, though. It was not
2 Audrey Stone TWU at the time that you sent it?

3 A. That is not what I said. I said I did not
4 think it was Audrey Stone TWU, that I believed it
5 was just Audrey Stone. I knew I had changed it at
6 some point.

7 Q. You did.

8 If it was Audrey Stone TWU at the time Charlene
9 Carter sent her Facebook message to you, does that
10 change your opinion about whether or not you should
11 have reported something received from a union
12 member?

13 A. No.

14 Q. So even if it came to Audrey Stone TWU, it is
15 still inappropriate and the union should take
16 action?

17 A. I still believe that it would have been
18 inappropriate and that Southwest Airlines should
19 take action in investigating.

20 Q. You certainly used Audrey Stone TWU Facebook
21 page for union activities, true?

22 A. At points during my presidency, yes.

23 Q. By the way, at some point, did you send out an
24 email to all of these people, or a Facebook message
25 to all of these people that you have been sending

1 Facebook messages to about union activities, Audrey
2 Stone TWU, did you ever send out something saying,
3 That is no longer Audrey Stone TWU, that is now my
4 personal Facebook page? Did you ever do that?

5 A. No. I did not often use Facebook as a vehicle
6 for communicating with members.

7 Q. Now, but you did. You used it to communicate
8 with Facebook members, including Charlene Carter?

9 A. I said I didn't often use it. And I did not
10 use it to communicate with Charlene Carter.
11 Charlene Carter utilized my Facebook to communicate
12 with me. It was a one-way communication.

13 Q. You never sent out a blast Facebook message
14 encouraging flight attendants to support -- or to
15 oppose right-to-work laws?

16 A. No.

17 Q. You never sent any message from your Audrey
18 Stone TWU saying, Support my Candacey?

19 A. Facebook messages?

20 Q. Yes.

21 A. Yes.

22 Q. From Audrey Stone TWU?

23 A. I made posts, I didn't send messages --

24 Q. Okay. Posts --

25 A. -- via Facebook to members.

1 Q. Let me try it again.

2 Did you use Audrey Stone TWU Facebook to make
3 posts to members of the union?

4 A. If they were a friend of mine on Facebook, yes.

5 Q. You -- and who-all were your friends? You
6 didn't have access to all of the flight attendants,
7 it was only a select few friends?

8 A. I never had -- my Facebook was not a public
9 account.

10 Q. I didn't ask if it was public.

11 Did you use it to send messages to flight
12 attendants in connection with your campaign for
13 union president?

14 A. If they were a Facebook friend of mine, or on a
15 group that I was a member of. But to the general
16 membership, no.

17 Q. So how many flight attendants did you send
18 these to, do you suppose? Are we talking 5? 50?
19 100?

20 A. Which post?

21 Q. The post -- let's just use "Support your
22 Candidacy"?

23 A. I don't recall how many Facebook friends I had
24 during the election in 2015.

25 Q. And in fact, didn't you set up a different

1 Facebook account for your family activities as
2 opposed to Audrey Stone TWU?

3 A. I initially did. And then quickly into my
4 presidency, I realized that I just didn't have time
5 to stay abreast via Facebook and that that wasn't
6 going to be a communication tool that I used
7 primarily.

8 Q. I hear what you want to say, but is my
9 statement correct?

10 A. Yes.

11 Q. And by the way, that other Facebook account,
12 what was it called?

13 A. Audrey Stone.

14 Q. And what is your understanding of whether or
15 not it violates Facebook rules to have two Facebook
16 pages for the same person?

17 A. I don't know anything about --

18 MR. McKEEBY: Objection.

19 THE COURT: Sustained.

20 BY MR. PRYOR:

21 Q. You had two Facebook pages, one of them was
22 Audrey Stone, one of them was Audrey Stone TWU;
23 correct?

24 A. Yes.

25 Q. Now, when you received a communication from

1 Charlene Carter, you were at the airport getting
2 ready to get on a flight?

3 A. When I received one of the communications from
4 Charlene Carter, yes.

5 Q. The message that you ended up filing a
6 complaint against her for?

7 A. Yes.

8 Q. Can you bring that closer to your mouth, lean
9 forward?

10 A. Yes.

11 Q. And when you got this message, you clicked on
12 the message for it to play?

13 A. I opened Facebook Messenger, and her message
14 was at the top as the most recent message. And when
15 I opened the message, the video started playing.

16 Q. So the way Facebook Messenger works is, you
17 open it, but you then you click on the video, if you
18 want to watch it, it doesn't automatically play.

19 Do you understand that?

20 MR. GREENFIELD: Objection. The witness
21 is testifying -- or, excuse me -- counsel is
22 testifying.

23 THE COURT: I will allow you to rephrase
24 it.

25

1 BY MR. PRYOR:

2 Q. Isn't it correct that you had to click on the
3 video for it to play? That is the way Facebook
4 Messenger works?

5 A. When I opened it, to pull the message up, it --

6 Q. Is it upsetting, ma'am, because you think you
7 saw a life? If it is not a life, why are you upset?

8 A. I am upset because it was the most graphic,
9 disturbing image I have seen.

10 Q. What is disturbing about it? Is it because it
11 shows a baby? It makes the point she was trying to
12 make about what you were doing with that march, that
13 is why you are crying?

14 A. That is not correct.

15 Q. So you are not crying because it was a baby.
16 Explain to me why it is graphic and upsetting if it
17 is not? What's -- then if it is nothing, what is
18 upsetting about it?

19 A. I didn't say it was nothing.

20 Q. Okay. It is something. Okay.

21 So let me just see if I understand. You are
22 telling us that that video started playing without
23 you asking it to, without you clicking on it.

24 A. When I opened it, I may have inadvertently hit
25 play. It all happened so fast. I was horrified. I

1 was about to board a flight in Denver. And I opened
2 it -- I was watching Facebook, and the next thing I
3 know, it was playing.

4 Q. Okay. So you may have inadvertently clicked
5 play.

6 And did you read the message before you clicked
7 play verterntly or inadvertently?

8 A. No, I stopped. I stopped it. And I did not
9 read any further at that moment.

10 Q. How many seconds did you watch the video before
11 you stopped it?

12 A. I don't remember exactly how many seconds it
13 was.

14 Q. Okay. But it was seconds? You didn't watch it
15 for very long, it was too upsetting to you, correct?

16 A. Correct.

17 Q. Would you say three seconds? How long before
18 you realized, I don't want to watch this, if it is
19 so graphic? Was it two seconds?

20 MR. GREENFIELD: Objection, your Honor.

21 MR. GILLIAM: Three seconds?

22 MR. GREENFIELD: Asked and answered, she
23 said she doesn't remember.

24 And it is my understanding that there is
25 the law, but there is also the language in the

1 contract under Article III that ultimately Southwest
2 can decide what is or isn't a violation of their
3 policy regardless of what kind of activity it is.

4 BY MR. PRYOR:

5 Q. Oh, let's look at that. Article III is going
6 to say that? That is your testimony under oath,
7 ma'am?

8 A. No, sir. I'm saying that is my understanding.

9 Q. No, no, let's look at it.

10 MR. PRYOR: May I approach?

11 THE COURT: You may.

12 BY MR. PRYOR:

13 Q. In the contract you negotiated you swore to
14 under oath that says illegal activity is all you can
15 do when someone is engaged in union activity. Go,
16 give to me.

17 A. That is not what I stated.

18 Q. Article III. Common on, you just swore to it.
19 It is different than what you swore to this morning?

20 A. I did not swear to what you just stated.

21 Q. Are you wanting to withdraw what you said? In
22 fact, you cannot report a union member engaged in
23 legal union activity and you did. Right?

24 MR. GREENFIELD: Objection, your Honor,
25 asking for a legal conclusion again.

1 THE COURT: I will allow it.

2 THE WITNESS: I do not believe that I
3 violated the law by bringing my concerns forward to
4 Southwest Airlines.

5 BY MR. PRYOR:

6 Q. You want to go ahead and answer my question
7 now?

8 I understand what you want to say.

9 You told us, Article III, it says it.

10 No. Article III doesn't say that. You know
11 it.

12 You know that you reported someone to the
13 company for engaging in legal union activity to
14 retaliate against her because she was on the recall
15 petition.

16 A. No. Absolutely not. I did not do anything to
17 retaliate against Charlene Carter. And I do not
18 believe that what she did in the totality of
19 everything she sent in that batch was protected
20 union activity.

21 No one.

22 Q. So the video was so upsetting, it is outside
23 union activity, when -- what about religious
24 activity, when her religious beliefs are that that
25 is murder? You don't have to agree with her. And

1 I'm not up here taking a position either. But she
2 believes it and her religion tells her to confront
3 that, and speak truth to the situation.

4 And it must have spoken to you in a way because
5 you cry about it.

6 MR. McKEEBY: Objection, testifying,
7 foundation as to Ms. Carter's belief.

8 THE COURT: Sustained.

9 BY MR. PRYOR:

10 Q. Isn't that why you cried about it, ma'am?

11 THE COURT: I sustained that. Can you ask
12 a new question free standing?

13 MR. PRYOR: I will. I will, let me get my
14 notes back.

15 Q. You don't want to talk to us about Article III,
16 ma'am?

17 A. I have repeatedly said that the way you are
18 repeating my comment about Article III is incorrect.

19 Q. We are doing a daily transcript. Maybe we will
20 show that to the jury in closing if we have that.
21 You are okay with that?

22 MR. GREENFIELD: Can we have a sidebar?

23 THE COURT: Sustained.

24 BY MR. PRYOR:

25 Q. Ma'am, let's look at exhibit -- I think it is

1 66.

2 BY MR. PRYOR:

3 Q. Did you watch the George Floyd video?

4 MR. GREENFIELD: Objection, your Honor,
5 relevance.

6 THE COURT: Sustained.

7 BY MR. PRYOR:

8 Q. Do you believe that a video is an effective
9 means of showing someone what is really happening
10 and effect change?

11 A. I think it depends on the circumstance.

12 Q. Okay. How about in the situation of George
13 Floyd, then?

14 MR. GREENFIELD: Objection, Your Honor.

15 MR. PRYOR: She just raised it --

16 THE COURT: I will allow it.

17 MR. PRYOR: I missed the ruling.

18 THE COURT: I will allow it.

19 BY MR. PRYOR:

20 Q. So how about the George Floyd video, then? By
21 the way, I'm not -- it is the most disturbing thing
22 I have ever seen. Did it disturb you?

23 A. I didn't watch all of it.

24 Q. I'm sorry?

25 A. I didn't watch all of it.

1 Q. I understand.

2 What you did watch, did it disturb you?

3 A. Yes.

4 Q. And, you know, I think we have heard in this
5 country before, about African-American men being
6 victimized by police, that --

7 MR. GREENFIELD: Objection, your Honor
8 he's testifying.

9 THE COURT: You have got to let him finish
10 his question first.

11 BY MR. PRYOR:

12 Q. -- but that video changed America, didn't it?

13 MR. GREENFIELD: Objection, Your Honor,
14 he's testifying. Move to strike. There is
15 foundation for anything he's saying.

16 THE COURT: I will sustain that. You can
17 ask -- the last part of your question you can ask.

18 BY MR. PRYOR:

19 Q. Okay. It changed America, didn't it, the
20 video? Thank God someone videoed it. And it was
21 terrible.

22 A. I don't feel like I could speak to whether or
23 not that changed America.

24 Q. So it was terrible, so no one should have had
25 the freedom to post that video and change America,

1 right? Didn't change you, apparently.

2 MR. GREENFIELD: Objection, your Honor.

3 Argumentative.

4 THE COURT: Sustained.

5 BY MR. PRYOR:

6 Q. Did it have an impact on you?

7 A. Yes.

8 Q. Do you believe it changed America?

9 A. No.

10 MR. PRYOR: Let's look at Exhibit 66.

11 BY MR. PRYOR:

12 Q. By the way, before 66, let's look at

13 Exhibit 19.

14 MR. PRYOR: Move to admit Exhibit 19.

15 THE COURT: I don't have anything

16 objection-wise on 19. Anything on 19?

17 MR. GREENFIELD: I'm sorry, this is what
18 number?

19 MR. PRYOR: Nineteen.

20 THE COURT: Nineteen.

21 MR. McKEEBY: No objection.

22 THE COURT: Any from the union to 19?

23 MR. GREENFIELD: I'm pulling it up right
24 now, your Honor.

25 MR. PRYOR: It is the president's message.

1 MR. GREENFIELD: No objection, Your Honor.

2 THE COURT: All right. Nineteen is
3 admitted. We will publish to the jury.

4 (The referred-to document was admitted in
5 Evidence as Plaintiff's Exhibit 19.)

6 BY MR. PRYOR:

7 Q. Let me show you the first page of Exhibit 19
8 and ask you if you can identify this document. And
9 if you would like a hard copy, I can bring you one.

10 Do you recognize it?

11 A. Yes.

12 Q. Okay. This is a president's message you sent
13 out to all of the flight attendants, correct?

14 A. Yes, all of the flight attendants that we had
15 email addresses on file for.

16 Q. Okay. That is 14-, 15,000?

17 A. Probably, at that time.

18 Q. You sent it to basically your entire union
19 membership, to the best of your ability?

20 A. Yes.

21 Q. And in this, there is a president's message.
22 And it says, I address social media, as I recognize
23 this is an issue that has the potential to affect
24 the vast majority of our work group, whether you are
25 on Facebook, Twitter, LinkedIn or any other social

1 media platform. I am pleased that over the last
2 month, Southwest Airlines has finally taken us
3 seriously.

4 You wrote that?

5 A. Yes.

6 Q. Your union has been addressing Southwest
7 Airlines's social media policy for a long time. We
8 have been bringing forward your concerns around lack
9 of clear guidance on a policy that is both vague and
10 undefined. We have witnessed inconsistencies around
11 the way the policy is applied and the often
12 subjective stance that Southwest management has
13 displayed in administering the policy.

14 Is that what you wrote?

15 A. Yes.

16 Q. By the way, where did you mention in here, oh,
17 by the way, we are also having these off-the-record
18 conversations with Southwest Airlines's management
19 about using the social media policy to target union
20 members and objectors? Do you cover that in here?

21 MR. GREENFIELD: Objection, Your Honor
22 he's just testifying.

23 THE COURT: Sustained.

24 MR. PRYOR: What was the basis of the
25 objection?

1 THE COURT: It was lawyer testifying.

2 MR. PRYOR: Okay. Let me try it another
3 way.

4 BY MR. PRYOR:

5 Q. Did you include in this message anything about
6 the emails we have seen where you know that your
7 second vice-president, one of your core team
8 members, is having conversations with senior
9 management of American Airlines about -- Southwest
10 Airlines, sorry; I used to represent American --
11 Southwest Airlines about using social media to
12 target union members and objectors?

13 A. My second vice president, I don't believe, was
14 having conversations with members of Southwest
15 Airlines' management about targeting objectors.

16 Q. You don't recall testifying about the emails
17 earlier that we talked about?

18 A. The emails that I have seen that involve
19 Southwest management were from Brian Talburt, who
20 was not the second vice president.

21 Q. Well, wait. We saw an email from Rocky
22 Mountain, who is Mike Hafner, that said, Yeah, he's
23 an ass --

24 MR. GREENFIELD: Objection, Your Honor.

25

1 BY MR. PRYOR:

2 Q. -- do you recall that?

3 MR. GREENFIELD: Again, lack of
4 foundation, and no evidence introduced in that
5 regard.

6 MR. PRYOR: No, she identified it.

7 THE COURT: I think she did. She can
8 answer it.

9 THE WITNESS: I don't know who Rocky
10 Mountain is and I'm not looking at that right now.
11 I believe it was a forward that Talburt sent to
12 Brett.

13 BY MR. PRYOR:

14 Q. I'm not saying it wasn't forwarded to you,
15 ma'am. I'm saying you knew these discussions were
16 going on.

17 As a matter of fact, you told us that you had
18 conversations with him about how improper that
19 was -- although there is nothing in writing -- but
20 you told us verbally you did. Now you are telling
21 us you didn't know anything about it? I thought you
22 coached him?

23 A. Sir, your question, the way I heard it, was
24 about conversations that both Mr. Talburt and
25 Mr. Nevarez were having privately with members of

1 Southwest Airlines's management. And I am stating I
2 do not believe that to be factual.

3 Q. What is not factual about it?

4 A. That I do not believe Mr. Nevarez was having
5 private conversations with members of Southwest
6 Airlines's management regarding targeting any
7 members.

8 Q. Well, how about emails, then? If you don't
9 think he had conversations, what about the email
10 where he talks about targeting Mike Casper and he
11 sends it to Rocky Mountain, and Rocky Mountain says,
12 He's an ass?

13 MR. GREENFIELD: Objection, your Honor,
14 asked and answered. She's testified --

15 THE COURT: Sustained.

16 BY MR. PRYOR:

17 Q. So it is your testimony you coached these
18 people about these improper activities. And then
19 when you wrote this president's message, you didn't
20 include anything about it, is that fair?

21 A. Yes.

22 Q. So you are telling the members, This is a
23 terrible social media policy, and yet over here, you
24 know in fact you are trying to make improper use of
25 the social media policy, and you don't disclose that

1 in your president's message?

2 A. That is not correct.

3 Q. So you write, Over the past several weeks, I
4 met with various Southwest Airlines leaders,
5 including our vice president of cabin services, Mike
6 Hafner, right?

7 A. Yes.

8 Q. Okay. And you aren't sure that that is the
9 Mike Hafner that Mr. Talburt is talking about?

10 MR. GREENFIELD: Objection, asked and
11 answered.

12 THE COURT: Sustained.

13 BY MR. PRYOR:

14 Q. Do you recall the email where he talks about it
15 is Mike's personal email address, we like to keep
16 these discussions off the record? You don't recall
17 that?

18 MR. GREENFIELD: Objection, asked and
19 answered.

20 THE COURT: Sustained.

21 MR. PRYOR: What was the objection?

22 THE COURT: Asked and answered.

23 MR. PRYOR: Oh, fair enough.

24 BY MR. PRYOR:

25 Q. Okay. Then you say, Your voices and your

1 issues have been strongly expressed by your union.
2 We have heard you. Over the last weeks, we have
3 been working towards seeking resolution on
4 outstanding grievances, challenges -- challenging
5 the discipline to flight attendants for alleged
6 violations of social media policy. We have been
7 making progress.

8 Did you write that?

9 A. Yes.

10 Q. And then you say, On a personal note, however,
11 please know that the social media issues management
12 investigated and the resulting discipline Southwest
13 Airlines issued did not arise out of something
14 management simply uncovered or stumbled upon. They
15 are not generally monitoring our sites.

16 Instead, these cases come about as our own
17 flight attendants are turning each other in. These
18 latest investigations have been the result of flight
19 attendant complaints. I am asking that we please
20 consider stopping any back and forth fighting on
21 social media.

22 We are not always going to agree with one
23 another, but please recognize that your fellow
24 employees are entitled to their own thoughts and
25 opinions. If we have a problem, let's work it out

1 as professionals that we are. Please respect one
2 another.

3 Is that what you wrote?

4 A. Yes.

5 Q. Did you mean it?

6 A. Yes.

7 Q. And then on February 22nd, 2017, you sent a
8 complaint regarding Ms. Carter to Southwest
9 Airlines, true?

10 A. Yes.

11 Q. And you complained about the social media
12 policy that we just read your president's message
13 about, true?

14 A. Yes.

15 MR. PRYOR: Move for the admission of
16 Exhibit 66.

17 THE COURT: Sixty-six, I don't have an
18 objection to.

19 MR. McKEEBY: No objection.

20 MR. GREENFIELD: Give me one second.

21 I do not.

22 THE COURT: Okay. Sixty-six is in. We
23 will publish.

24

25

1 (The referred-to document was admitted in
2 Evidence as Plaintiff's Exhibit 66.)

3 BY MR. PRYOR:

4 Q. This is what you sent to Suzanne Stevenson,
5 correct?

6 A. Yes.

7 Q. And who is Suzanne Stevenson?

8 A. At the time, she was the Las Vegas based
9 manager.

10 Q. Okay. And a base manager is your kind of local
11 supervisor out of where your base -- where you fly
12 out of or where you live?

13 A. It is -- it is the managers, the top person.
14 They are above the supervisors in that domicile. It
15 is the top person in the domicile that you are based
16 out of.

17 Q. The top person in your domicile, that is who
18 you report complaints about other employees
19 regarding violation of company policy?

20 A. It is one of the people you can report it to,
21 yes.

22 Q. Well, isn't that typically who you would report
23 it to, base manager?

24 A. There are some flight attendants that report it
25 to a supervisor. There are some flight attendants

1 that report directly to labor relations, a
2 complaint. Some that do employee relations. Some
3 that do all three departments.

4 Q. What is the standard -- go ahead. Are you
5 done? What is the standard policy? You report to
6 base manager?

7 A. Actually, no. In our Southwest policy, it
8 outlines a list of people that you should report
9 harassment to, and a manager is one of the many
10 positions listed as an option.

11 Q. And one of the people you should report to,
12 then, is Suzanne Stevenson, base manager?

13 A. Yes.

14 Q. Now, on that list, it doesn't say you should
15 report it to the head of in-flight, does it?

16 A. Actually, it does. It says, Or the vice
17 president.

18 Q. So you are required to report all complaints to
19 the head of in-flight?

20 A. I didn't say you are required. It is one of
21 the positions people listed under the Southwest
22 Airlines Harassment Policy.

23 Q. The policy is, any time you see a violation,
24 you can report it to anyone in management. But it
25 is unusual to include in your complaint the head of

1 in-flight?

2 A. I don't think so. There were -- I have seen
3 many, many times -- I wouldn't send anything just to
4 one person of this nature.

5 Throughout the course of my union career, I saw
6 things fall through the cracks, balls get dropped,
7 because it went to one individual, and it wasn't
8 seen. And since I went to the base manager, I
9 wasn't going to cc someone in a lower position than
10 hers.

11 Q. Well, you are not required to cc someone. But
12 did you think Suzanne Stevenson was going to drop
13 the ball on this?

14 A. I always counseled flight attendants that if it
15 was something important, they needed to cc someone
16 on written communication they sent to make sure that
17 it had the eyes on it that they intended for it to.

18 Q. And you just happened to send it to Sonya
19 Lacore, the person at in-flight, that you had
20 received emails about her conversations with
21 Mr. Talburt, about targeted assassinations of people
22 like Ms. Coreless and Mr. Casper, true?

23 A. Yes.

24 Q. And so you included Sonya Lacore. You also
25 included Naomi Hudson, who is on the labor relations

1 negotiating team for Southwest Airlines, right?

2 A. She was on the Southwest Airlines negotiating
3 team. Her position at Southwest Airlines was also
4 director of labor relations.

5 Q. So your head of the negotiating team for the
6 union, and you decide to include someone on
7 Southwest Airlines's side of the negotiating team in
8 a complaint against another employee, right?

9 A. Yes. I included her because she was the
10 director of labor relations, and labor relations is
11 involved in any investigation of complaints that is
12 brought forward to Southwest Airlines.

13 Q. So you write this email -- yeah, it is an
14 email. And you say, several things. You say, Below
15 you will see Facebook messages that were sent to me
16 last week by Southwest Airlines flight attendant
17 Charlene Carter. It is in regards to a TWU Local
18 556 Women's Committee meeting. That is what you
19 said, right?

20 A. Yes.

21 Q. It is relating to a union activity according to
22 your own words, correct?

23 A. Yes.

24 Q. And then you say that, I participated in last
25 month in a march that I voluntarily participated in

1 a few days later.

2 You say, This message contains two graphic
3 videos of an alleged aborted fetus and makes
4 reference to murder, as well as political and
5 religious comments.

6 That is what you wrote? True?

7 A. Yes.

8 Q. And so, so far, you have acknowledged it is
9 union activity, you have acknowledged it is
10 political activity, and you have acknowledged it is
11 religious activity. True?

12 A. Yes.

13 Q. It says, I believe these to be a violation of
14 the social media policy. Correct?

15 A. Yes.

16 Q. The policy that you had said shouldn't be
17 utilized against flight attendants, and that
18 shouldn't be reported by flight attendants, true?

19 A. I had said that, yes.

20 Q. You also say, I find it obscene and violent, as
21 well as threatening in nature.

22 So the obscene and violent, is that -- are
23 those the videos of the baby? The fetus?

24 A. The obscene part -- part of her message, I took
25 as a threat.

1 Q. Okay. Let's talk about the threat.

2 The threat was, she can't wait to see you
3 online, right?

4 A. Yes.

5 Q. And that was a threat?

6 A. There was nothing about any of the messages
7 that she had sent --

8 Q. Well --

9 A. May I finish? There were nothing that were
10 friendly, and there had already been conversations
11 taking place on social media about what the flight
12 attendants were going to do to me when I came back
13 online, and that I would need to travel with body
14 guards. So yes, I took that as a threat.

15 Q. So those other things you are talking about,
16 those weren't from Charlene Carter, were they?

17 A. The other ones were not.

18 Q. And in fact, in the previous messages you had
19 received from Charlene, she constantly was telling
20 you, she doesn't think you should be a full-time
21 paid member of the union and she's looking forward
22 after the recall petition to you going back online
23 as a flight attendant, isn't that correct? Is it
24 correct, ma'am?

25 MR. McKEEBY: Objection, talking about

1 documents that are not in evidence.

2 THE COURT: Sustained.

3 BY MR. PRYOR:

4 Q. From your recollection, the communications she
5 received -- you received from her, she's telling
6 you, she doesn't think you should be union president
7 and she can't wait for you not continue to be paid
8 with her union dues, and she can't wait to see you
9 back online. That is the context, isn't it?

10 A. That is not the context that I took that
11 message.

12 Q. So you don't think that is the context?

13 A. No.

14 Q. And so you took that phrase that you used
15 yourself many times as a threat, true?

16 A. Yes.

17 Q. And so did you report her to the police?

18 A. No, I did not report her.

19 Q. No, you reported her to Southwest Airlines, not
20 the police, for a threat, true?

21 A. Yes.

22 Q. In the next paragraph, you say, I'm fearful to
23 return to my job as a line flying -- line flying
24 flight attendant due to repeated personal attacks
25 and threats made both via social media, as well as

1 altercations that occurred face-to-face while I have
2 been on a Southwest Airlines plane.

3 None of those involved Charlene Carter, these
4 are other attacks and threats that you are talking
5 about?

6 A. Yes.

7 Q. And you included them in your complaint against
8 Charlene Carter, correct?

9 A. Yes, because I viewed her comment as a threat.

10 Q. I'm sorry?

11 A. Yes, because I viewed her comment toward me as
12 a threat.

13 Q. No, I understand you are saying, I will see you
14 online as a threat.

15 But you then talk about personal attacks and
16 threats and being -- face-to-face encounters on the
17 airplane, you are talking about other things you
18 were dealing with, correct?

19 A. Yes.

20 Q. And you included that in your complaint against
21 Charlene Carter?

22 A. Yes.

23 Q. And then you go on to say, I am personally pro
24 choice. But then you go on to say, However, I
25 believe in equality and individual rights, and will

1 continue to support causes and events that promote
2 fundamental rights.

3 Because what you are saying is, you are pro
4 choice?

5 A. No. I immediately sent another email when I
6 realized I had mistyped.

7 Q. Ma'am, you are going to have to hold the
8 microphone to your mouth.

9 A. No. I immediately sent a second email when I
10 went back and reread what I had typed. And I said I
11 was personally -- personally pro life.

12 Q. Are you finished with your answer?

13 A. Yes.

14 Q. In fact, what you wrote was, that you are
15 personally pro choice. You may believe abortion
16 involves a life, but you are pro choice. Let a
17 woman decide what to do with what is inside her
18 body. That is your position?

19 MR. GREENFIELD: Objection, your Honor,
20 asked and answered.

21 THE COURT: I will allow this
22 clarification question.

23 THE WITNESS: There is another piece that
24 isn't displayed right now that I'm speaking to,
25 because I mistyped that on my personal beliefs.

1 BY MR. PRYOR:

2 Q. It says, I am personally pro choice, is that
3 what you wrote?

4 A. It is, and I corrected it immediately after
5 sending this email.

6 Q. And you corrected it by saying, I am personally
7 pro life, but I believe in women having a choice,
8 true?

9 A. Yes. That I don't believe anyone else has the
10 right to dictate what should happen to another
11 woman.

12 Q. Fair enough. But that is the definition of pro
13 choice, ma'am. That is not pro life. That is pro
14 choice.

15 MR. GREENFIELD: Objection, Your Honor,
16 he's testifying again.

17 THE COURT: Sustained.

18 BY MR. PRYOR:

19 Q. Do you understand that pro choice means exactly
20 what you just said? What you believe, that let a
21 woman -- and I'm not debating you about it -- nut
22 let a woman decide what to do with her body? That
23 is pro choice. People who are pro life say that
24 woman doesn't have that choice. That is not you,
25 you are not pro life, you are pro choice.

1 MR. GREENFIELD: Same objection,

2 THE COURT: Sustained.

3 BY MR. PRYOR:

4 Q. You just told us you thought pro choice means
5 that a women should get to decide what to do with
6 her body. Is that what you believe?

7 MR. GREENFIELD: Objection, your Honor,
8 asked and answered.

9 THE COURT: Sustained.

10 MR. PRYOR: What was the objection?

11 THE COURT: Asked and answered.

12 MR. PRYOR: Well, Your Honor, if I could,
13 she's now tried to backtrack on what she said and so
14 I'm trying to clarify. I'd ask --

15 THE COURT: I think it was clear.

16 MR. PRYOR: Okay. All right. I will move
17 on.

18 BY MR. PRYOR:

19 Q. Ma'am, attached to that exhibit, is the video
20 that you found disturbing. It is the next page.
21 I'm not going to play the video. I'm going to read
22 the -- what is said before playing the video.

23 It says, This is what you supported during your
24 paid leave with others at the Washington March in
25 DC. You truly are despicable in so many ways. By

1 the way, the recall is going to happen, and you are
2 limited in the days you will be living off of all of
3 the Southwest Airlines flight attendants. Can't
4 wait to see you back online.

5 Isn't she, in fact, exercising her union right
6 to object to the union and to tell you she thinks
7 you are doing something awful and that you -- she
8 can't wait to see you, Quit living off Southwest
9 Airlines and going back on line, and that is what
10 you are calling a threat?

11 MR. GREENFIELD: Objection, Your Honor,
12 compound question.

13 THE COURT: I will allow it.

14 THE WITNESS: It is not how I took those
15 messages.

16 BY MR. PRYOR:

17 Q. I'm asking you if I said anything that is
18 incorrect?

19 A. Yes.

20 Q. What did I say incorrect?

21 A. I did not believe that the way that she sent
22 those, what she sent, the comments she sent, I did
23 not believe that was her exercising union protected
24 speech, and simply saying that I -- that she was
25 ready for me to be back on line.

1 Q. Ma'am, is this the video you watched two or
2 three seconds of? Or was it the other one?

3 MR. GREENFIELD: Objection, your Honor,
4 mischaracterizes the testimony, previous testimony.

5 THE COURT: I think it was a question.
6 I'm fine with your question and her answer, if she
7 has an answer to your question.

8 BY MR. PRYOR:

9 Q. Go ahead, ma'am.

10 A. Yes.

11 Q. This is the video?

12 A. I believe so.

13 Q. I'm sorry?

14 A. Yes, I believe so.

15 Q. Okay. And it is the effectiveness -- I
16 understand it is disturbing. Bad things are
17 disturbing.

18 It is the effectiveness of the video that is
19 upsetting. True?

20 A. No.

21 Q. So it is not effective. That is not what is
22 offensive. What is offensive?

23 A. That is not what I said.

24 Q. You just said no, so then the other side of
25 that has got to be that it is not offensive.

1 It is upsetting because it is effective, true?

2 A. It is disturbing.

3 Q. Okay. It is disturbing because it is
4 effective.

5 A. No one should be sent that.

6 Q. So you feel that way. And some people might
7 feel no one should take my money and support
8 something like that. That is equally upsetting to
9 someone else.

10 And to speak to power, to speak to her
11 president of her union to get that message across,
12 is no different than what you are saying.

13 MR. GREENFIELD: Objection, your Honor,
14 he's testifying, he's talking about what some people
15 may think.

16 THE COURT: I will sustain that. You can
17 rephrase it.

18 BY MR. PRYOR:

19 Q. Let me go back to my question. And I will
20 still wait for an answer.

21 This video was disturbing to you, because it
22 was effective?

23 MR. GREENFIELD: Objection, your Honor,
24 asked and answered. He's being argumentative.

25 MR. PRYOR: She's not answered.

1 THE COURT: There is no answer yet.

2 MR. PRYOR: I'm sorry, Your Honor?

3 THE COURT: There is no answer yet. I
4 will let her answer if she can.

5 THE WITNESS: If "being effective" means
6 upsetting me terribly, of being subjected to
7 horrific images, being called a murderer, if that is
8 what your definition of effective is, yes, it was
9 effective for that.

10 BY MR. PRYOR:

11 Q. Let's test that. First of all, she didn't call
12 a murder. She said you were supporting murder. And
13 it is not even in this message, but okay.

14 She said you supported murder whenever you give
15 money to an organization that does something like
16 this. That is what she said. She didn't call you a
17 murderer.

18 MR. GREENFIELD: Objection, your Honor,
19 he's testifying about what someone --

20 MR. PRYOR: She testified. I'm testing
21 her testimony.

22 THE COURT: I will allow this question.

23 THE WITNESS: Our union has not supported
24 abortion or Planned Parenthood by giving money or
25 union dues.

1 BY MR. PRYOR:

2 Q. Did your union support the march of Planned
3 Parenthood?

4 MR. McKEEBY: Objection, that
5 mischaracterizes. It is not the march of Planned
6 Parenthood.

7 MR. PRYOR: I will rephrase.

8 THE COURT: Sustained.

9 BY MR. PRYOR:

10 Q. Did you support -- did the union support the
11 Women's March that was sponsored -- the premier
12 sponsor being Planned Parenthood?

13 MR. GREENFIELD: Objection, your Honor,
14 again, mischaracterizes testimony that --

15 THE COURT: I will allow it based on my
16 recollection of the testimony.

17 THE WITNESS: Yes.

18 BY MR. PRYOR:

19 Q. If you thought someone was doing something that
20 was murder, would you try and stop it?

21 Is that a hard question?

22 A. I didn't say that a woman who makes a choice to
23 have an abortion is murder.

24 Q. Listen to me question. We are not even talking
25 about abortion right now.

1 If you think someone is doing something that is
2 murder, would you do something to try and stop it?

3 MR. GREENFIELD: Objection, your Honor,
4 relevance.

5 MR. PRYOR: Seems clearly relevant.

6 THE COURT: I will sustain it.

7 BY MR. PRYOR:

8 Q. If you thought someone was engaging in conduct
9 that you could have -- first of all let's try this.
10 Someone is using your money to murder someone. You
11 got the hypothetical?

12 A. Yes.

13 Q. Would you say, Quit using my money to murder
14 someone? Would you do that?

15 MR. GREENFIELD: Objection, your Honor,
16 relevance.

17 MR. PRYOR: Seems on all fours.

18 THE COURT: I will sustain that objection.

19 MR. PRYOR: I'm sorry, did you sustain?

20 THE COURT: I did.

21 MR. PRYOR: Okay. All right. Your Honor,
22 I don't want to quibble with your ruling, but I'm
23 going try again. But if I -- if it's the whole area
24 --

25 THE COURT: Do you need a sidebar?

1 MR. PRYOR: I'm sorry?

2 THE COURT: Do we need a sidebar?

3 MR. PRYOR: Yes, your Honor.

4 (Thereupon, the following proceedings were
5 had at sidebar:)

6 MR. PRYOR: I am so trying to be good
7 because I realize --

8 THE COURT: I get it. My concern here is,
9 it is speculation as to her, not at all as to
10 Carter. When Carter takes the stand, these are all
11 fair game, right? But asking any other witness,
12 Well, if you were in her shoes with her view of
13 life, wouldn't you believe it is protecting --

14 MR. PRYOR: This is not my question. My
15 question is her. I'm not wanting her to put herself
16 in Carter shoes. I'm wanting her to put her in her
17 shoes. If you were in a situation where you thought
18 someone was doing something, wouldn't you take
19 drastic action? That's my point.

20 THE COURT: I will allow you to ask it if
21 you clean up the phraseology.

22 MR. PRYOR: I'm going to try. I'm not
23 very good at this.

24 THE COURT: You can ask her as her, not
25 her as Carter. All right?

1 MR. PRYOR: Absolutely. That is what I
2 meant.

3 THE COURT: Okay.

4 (Thereupon, the sidebar was concluded and
5 the following proceedings were held in open
6 court:)

7 THE COURT: All right. I will let you
8 reframe that question.

9 BY MR. PRYOR:

10 Q. Okay. Ms. Stone, let me very clear. I'm
11 talking to you about you, okay? Not about
12 Ms. Carter, not about anyone else. You, the
13 president of the Local 556 at the time.

14 MR. GREENFIELD: Objection, your Honor.
15 Her or her as the -- may we sidebar on that?

16 THE COURT: If you want to.

17 (Thereupon, the following proceedings were
18 had at sidebar:)

19 MR. PRYOR: I think I get both, but okay.

20 MR. GREENFIELD: That is exactly what we
21 are talking about. Now you are talking about two
22 separate -- her as an agent of the union, that
23 combine the union, or her personally?

24 MR. PRYOR: Yeah, I want both.

25 THE COURT: Okay.

1 MR. PRYOR: Of course.

2 MR. GREENFIELD: Then separate them out.

3 THE COURT: As long as you ask the
4 separate questions, then it is fine.

5 MR. PRYOR: Okay. I thought I said as her
6 profession. Okay. All right.

7 (Thereupon, the sidebar was concluded and
8 the following proceedings were held in open
9 court:)

10 THE COURT: Okay. You can proceed.

11 You may want to reask it, because I think
12 we all forgot.

13 MR. PRYOR: Yes.

14 BY MR. PRYOR:

15 Q. Ma'am, if, as president of the Local 556 you
16 believe -- I'm talking about you now -- if you
17 believe -- and not in the situation of abortion, we
18 don't have to put it in that context -- if you
19 believe your union funds were being utilized for
20 murder, would you do something? Would you try and
21 take strong action to stop it?

22 A. Yes.

23 Q. And would you personally, if you thought your
24 money was being used to perpetrate murder, would you
25 say, Quit spending my money that way, and do it in

1 as forceful and an effective manner -- legal, of
2 course -- that you can? Would you do that?

3 MR. GREENFIELD: Objection, compound
4 question.

5 THE COURT: Can you split it up?

6 MR. PRYOR: I'm sorry, it was --

7 THE COURT: Compound. Can you split it
8 up?

9 MR. PRYOR: Okay. I will break it down.

10 BY MR. PRYOR:

11 Q. So would you, if you thought your money was
12 being used to perpetrate murder -- you got the
13 example so far?

14 A. Yes.

15 Q. Would you, first of all, say, Stop spending my
16 money on murder? Would you do that?

17 A. Yes.

18 Q. And would you, in the most effective means that
19 you could within the law, try and convince them to
20 stop doing that?

21 A. Not if it is the way she did it.

22 Q. Well, I didn't put it in the context of
23 abortion. I understand what you want to say about
24 abortion.

25 But let's say that it is -- union money is

1 going to Bangladesh and -- at a shoe factory and
2 little children are making shoes and they are --
3 several die every week.

4 Would you send a video and say, Look at these
5 conditions, look at this poor dying child? Would
6 you do everything you could to save that child?

7 MR. GREENFIELD: Objection, relevance to
8 children in Bangladesh, Your Honor.

9 MR. PRYOR: She wanted an example, I gave
10 her one.

11 THE COURT: I will allow it.

12 BY MR. PRYOR

13 Q. I can give you more.

14 A. I don't know what I would do in that situation.

15 Q. You would not do everything you could to save
16 that child in Bangladesh, would you? You wouldn't
17 show a video to someone to stop them from murdering
18 that child because it is too offensive, right?

19 A. I wouldn't harass or threaten another person.

20 Q. I'm asking about my example, ma'am. In my
21 example, you are not going to use a video to save
22 that child because it offends your sensibilities
23 more than murder does, correct?

24 A. I don't understand -- I don't understand the
25 question, that -- that last part of comparing that

1 it offends me more than murder.

2 Q. Since this the video you watched -- and it is
3 graphic. And by the way, when this was posted on
4 her Facebook page, she put "graphic video" and so
5 you could decide to use it or not.

6 With Facebook Messenger, you already have to
7 decide. It doesn't just start playing, but you say
8 you inadvertently clicked on it --

9 MR. McKEEBY: Objection.

10 Q. -- but that certainly was your inadvertence not
11 her intention. She sent you something --

12 THE COURT: Hold on. We have got an
13 objection.

14 MR. McKEEBY: I think I might have
15 several, but the one I got to up to say was
16 irrelevant -- excuse me -- hearsay. He's testifying
17 about documents that are not in evidence.

18 THE COURT: Sustained.

19 Start a new question.

20 MR. PRYOR: Okay. I can't even remember
21 the -- the -- okay.

22 BY MR. PRYOR:

23 Q. The video that you received, you clicked on it
24 inadvertently, true?

25 A. Yes.

1 Q. The video that was sent to you was sent to you
2 as a private message to Audrey Stone TWU, true?

3 A. It was sent to me as a private message on
4 Facebook via messenger. I have already said I don't
5 recall if it was Audrey Stone or Audrey Stone TWU at
6 that time.

7 Q. It doesn't matter which to you, correct? In
8 terms of the actions you took?

9 THE COURT: Counsel, can I ask, can we
10 take our last break for the day right quick, and
11 then we will come back?

12 MR. PRYOR: Yes. Believe it or not, I'm
13 going to wrap up, I hope.

14 THE COURT: So if you have got
15 five minutes or less --

16 MR. PRYOR: Oh, I can't commit to that.

17 THE COURT: Okay. That's fine. Then
18 let's take our last break. Same three instructions:
19 Only talk to your fellow jurors, just not about the
20 case; don't talk to anyone else other than fellow
21 jurors or courthouse personnel; and don't do any
22 research about the case.

23 We'll see you in five minutes at 4:15.

24 All rise.

25 (The jurors exited the courtroom.)

1 THE COURT: And I have one question for
2 folks before witness is out of the room -- not about
3 the witness, just about other witnesses.

4 So you can go ahead and leave, Ms. Stone.

5 And then we will take our break right
6 quick.

7 (The witness exited the courtroom.)

8 THE COURT: So my question for y'all is on
9 depo designations and order of witnesses in the
10 future. I know we have gotten the rulings back on
11 objections to depo designations from Talburt and
12 Parker. We are still working on Conlan, Sims,
13 Rutherford, Klenurne, Burdine.

14 What I'm asking is, triaging. Who do you
15 think is next up? I know Conlan was on a list for
16 today. Obviously, we probably won't get to Conlan.
17 But who should we work on in order of prioritization
18 as far as getting written rulings back to y'all on
19 objections within your page line designations?

20 MR. PRYOR: Your Honor, you are asking
21 us -- you have currently have done Talburt, and he
22 will be our next witness.

23 THE COURT: Okay.

24 MR. PRYOR: We don't have Mr. Nevarez.
25 After that we anticipate Mr. Parrott, a live

1 witness. Then we will read from the deposition of
2 Ms. Parker.

3 THE COURT: Uh-huh. Which we have on
4 file.

5 MR. PRYOR: Okay. I need to consult with
6 counsel. I think it is important the time we are
7 spending with this witness for our case. And I'm --
8 but I'm also mindful of our time limit. And I
9 cannot tell the Court that we will not cut Conlan.
10 But if we were going to call him, he would be our
11 next witness.

12 THE COURT: Okay. So I have already
13 internally prioritized Conlan. I'm just trying to
14 make sure Conlan is the right person to do next.
15 But have you got two or three others for me to
16 prioritize after Conlan?

17 MR. PRYOR: I anticipate at least four
18 live witnesses after -- or five, even -- after
19 Conlan before you would get to Kleburne and Burdine.
20 And I think those are relatively short deposition
21 excerpts, and those are the only ones left.

22 THE COURT: Okay. So Sims and Rutherford,
23 we should not turn to?

24 MR. PRYOR: Sims -- oh, your Honor, we
25 probably -- we designated Sims, but we have the

1 opportunity to call him live.

2 THE COURT: Okay. Got it. So Sims is
3 live. And then Rutherford, are we thinking
4 Rutherford is last on priority or Rutherford will be
5 live?

6 MR. PRYOR: I'm sorry? They are saying
7 yes. Kleburne and Burdine are the last two.

8 Okay. And then Rutherford, what is the
9 Rutherford status, live or not priority?

10 MR. GILLIAM: No, it would be by
11 deposition, if we get to her.

12 THE COURT: Okay. So we will put
13 Rutherford as the fourth depo to get to. So I have
14 got Conlan, Kleburne, Burdine and Rutherford as the
15 depo designation objections to get to my
16 prioritization order. Okay. Thank you for helping
17 clarify that for me.

18 And then we can talk about Nevarez at the
19 end of the day. Sound good?

20 MR. PRYOR: Sure.

21 THE COURT: Okay. Now, let's take our
22 break, and we will see y'all at 4:15.

23 MR. GREENFIELD: Your Honor, may we have a
24 brief sidebar before we break?

25 THE COURT: Do we need a sidebar? I mean,

1 everyone is out.

2 MR. PRYOR: What are we doing?

3 MR. GREENFIELD: I would just prefer not
4 to be in front of the full gallery, but --

5 THE COURT: Okay. That's fine.

6 (Thereupon, the following proceedings were
7 had at sidebar:)

8 MR. GREENFIELD: I don't want to object
9 the flow of counsel, but -- and I have tried to be
10 respectful, but his consistent use of sidebars and
11 testifying during his examinations, I find to be
12 abusive of proper cross-examination rules. And I am
13 going to feel compelled to object more if he
14 continues to do it. I have tried to give him
15 leeway, but I feel like it is getting worse and
16 worse, your Honor.

17 MR. PRYOR: Let me say, this is obviously
18 a pivotal witness. And it is a witness with a bent,
19 and I'm entitled to challenge this witness and I
20 think we have. I don't think I have crossed the
21 line. I do know that I have had several long
22 questions that the Court has sustained objections
23 on. I can think of two or three. But I'm not sure
24 what the point is being made here. If I ask an
25 objectional question, I expect an objection.

1 THE COURT: I will say this, there is
2 always a fine line because you have to lead an
3 adverse witness, but you also cannot testify.

4 This also has the interesting implications
5 of being a key witness that is also going first.
6 All right? And so I'm trying to draw the line where
7 I draw it. Anytime you have had a three-line lead
8 up --

9 MR. PRYOR: Fair enough.

10 THE COURT: -- before you ask the question
11 mark, then, holy cow, I'm granting that, right?
12 Does that make sense?

13 MR. PRYOR: It does.

14 I just try to draw the line there.

15 MR. PRYOR: And, you know, part of it is
16 the heat of the battle. And I do recognize that the
17 questions need to -- I thought the questions, when I
18 summarized testimony and then got her to answer,
19 were fair.

20 And I think you allowed a couple of those.
21 But then certainly, there are ones that -- I get it.
22 And I appreciate that the Court sustained those.
23 And I'm not intending to violate a rule.

24 THE COURT: I'm not moving the line. I'm
25 not trying to get on to you for objecting. And the

1 ones I think crossed the line, I sustained the
2 objection on.

3 MR. PRYOR: Sure.

4 THE COURT: So I think we are going to
5 keep plotting the course where we are plotting it
6 and the chips fall where they fall.

7 MR. PRYOR: Okay.

8 THE COURT: We will see you back here.

9 MR. GREENFIELD: That is why I wanted to
10 do it.

11 THE COURT: I appreciate that.

12 MR. PRYOR: I just say this for purposes
13 of warning, I'm going to play the video next.

14 THE COURT: Right into the break.

15 MR. GREENFIELD: Does the witness need to
16 watch this again?

17 MR. PRYOR: She doesn't have to watch it.

18 MR. McKEEBY: I'm going to play it for
19 her, if he doesn't.

20 MR. PRYOR: So, your Honor, she's
21 testified that she --

22 THE COURT: I can't make her open her
23 eyes, right? But if she looks away, then, you know,
24 I can't -- and the same thing with the jury, I can't
25 force them to keep their eyes on it.

1 MR. PRYOR: I'm not -- I think that, given
2 the nature of this case, I have to do this. She's
3 testified she watched about three seconds of it.
4 I'm going to play three seconds.

5 MR. GREENFIELD: That is also not her
6 testimony.

7 MR. PRYOR: I believe it is.

8 THE COURT: A few seconds.

9 MR. PRYOR: She said as soon as she
10 realized what it was, she stopped it. That's
11 probably less than three -- three seconds is much
12 longer than that. I gave her the benefit. I think
13 she agreed.

14 THE COURT: I understand.

15 MR. PRYOR: Okay. I'm just letting
16 everyone know.

17 THE COURT: Question, do you want me to
18 forecast for the jury when we come back in? Or do
19 you want to the one --

20 MR. PRYOR: Yes. No, I think we -- we
21 should. I will do it in a preamble to my question,
22 but the Court doing it is fine.

23 THE COURT: Well, I'm going to tell the
24 jury, look, this is a question I asked, there are
25 going to be pictures, there are going to be videos.

1 The video that you see cued up is --

2 MR. PRYOR: Will be a short clip.

3 THE COURT: -- before the day is over.

4 MR. PRYOR: It will just be the clip to
5 the extent she watched it.

6 THE COURT: I'll do it. That is my job.

7 Thank you.

8 (Recess.)

9 MR. GREENFIELD: He's intending to -- what
10 I heard is, to play what he thinks she watched, a
11 portion. If we are going to play the video, I think
12 we need to play the whole video. We don't know how
13 much she watched or not. She couldn't even recall
14 how much it was. So if we are going to play, lets
15 play the whole video.

16 MR. PRYOR: That is absolutely wrong. And
17 I, first of all, can play whatever I want. And
18 second of all, she said seconds. The video is over
19 three minutes long.

20 THE COURT: I think you're entitled to --

21 MR. PRYOR: I understand what he's trying
22 to do.

23 THE COURT: -- play all of it if you want
24 to.

25 MR. PRYOR: Okay. If he wants to do it in

1 his case, we will be sure and talk about that.

2 THE COURT: Appreciate that.

3 MR. GREENFIELD: That's fine.

4 THE COURT: Thank you.

5 (Recess.)

6 THE COURT SECURITY OFFICER: All rise.

7 THE COURT: Okay. Anything before we get
8 the jury? I will give that disclaimer when they
9 come in. So you can bring them in.

10 (The jurors entered the courtroom.)

11 THE COURT: All righty. Thank you. You
12 can be seated.

13 And, Mr. Pryor, you can approach the
14 podium.

15 While you do, I will remind the jury that
16 during jury selection yesterday, we talked about
17 this case can touch on sensitive topics like
18 abortion, that there are going to be graphic images,
19 videos. Y'all saw the Facebook message with the
20 video queued up.

21 I understand from Mr. Pryor we are going
22 to play at least a few opening seconds of that
23 video. So I am just warning you of that in advance.
24 It's part of the evidence. The lawyers are entitled
25 to put it on, and so I'm letting them.

1 So, Mr. Pryor, with that, you can continue
2 your questioning.

3 MR. PRYOR: And just a couple of preamble
4 questions to that.

5 BY MR. PRYOR:

6 Q. Ma'am, you previously told us you accidentally
7 hit play, and the moment you realized that it was
8 something you considered so offensive, you stopped
9 watching it, and you estimated that to be a few
10 seconds. Is that fair?

11 A. I thought I said I didn't recall how long, how
12 many seconds I watched it, but that I didn't finish
13 watching the video.

14 Q. I understood you to say you realized
15 immediately it was offensive and stopped watching.
16 Is that fair?

17 A. Quickly, yes.

18 Q. Okay. I'm going to play three seconds of the
19 video that you watched. Three seconds is (snapping
20 fingers). That is a long time if you are looking at
21 something and immediately realize it's offensive and
22 stop watching, true?

23 A. I didn't say three seconds.

24 I don't recall. I've testified repeatedly, I
25 don't know how long I watched it. It was long

1 enough to become upset, stopped watching it, and
2 have to go to the women's restroom to pull myself
3 together before I could board the flight I was
4 supposed to be on.

5 Q. One of the things I wrote down, you told us you
6 immediately realized that it was offensive. What
7 does "immediately" mean?

8 Are you trying to make us watch more of the
9 video than you watched, ma'am?

10 A. I am not. Southwest and the Union have argued
11 over the definition of "immediately" in the past,
12 and that is what is going through my mind.

13 Q. I'm just asking you what "immediately" meant to
14 you sitting in the airport, you looked at it, and
15 immediately realized it was offensive and stopped
16 watching.

17 MR. GREENFIELD: Objection, your Honor,
18 asked and answered.

19 THE COURT: Sustained.

20 BY MR. PRYOR:

21 Q. Is three seconds an unfair estimate?

22 A. I don't know how many seconds it was playing.

23 Q. All right. Ma'am, you've seen this video. And
24 I'm not asking -- I don't need you to watch it to
25 authenticate it if you do not want to watch it.

1 It's part of the evidence in this case, and so
2 I'm going to play three seconds of this video.

3 (Thereupon, the video clip was played.)

4 BY MR. PRYOR:

5 Q. Now, you were also sent a -- I'm looking for
6 the -- you know, when you sent your complaint, you
7 didn't include the Facebook message about the hats.
8 Did you?

9 A. I don't -- I don't think originally. I think
10 it was just the -- the still screen shots of the
11 video.

12 Q. Okay. So your email doesn't mention the
13 pictures of the women in the hats, and it is not
14 attached to Exhibit 66.

15 Do you know whether or not, at the time you
16 made your complaint, you even included the message
17 about the hats?

18 A. In the original complaint, again, I don't
19 believe so.

20 Q. Okay.

21 A. It was provided later.

22 Q. You don't think you included that, correct?

23 A. Correct.

24 Q. Subsequently, Southwest Airlines asked you to
25 send more information, didn't they?

1 A. Yes. They asked me to send anything that she
2 had sent.

3 Q. At that point, you included the message with
4 the pictures of the hats, true?

5 A. I believe so.

6 Q. By the way, when Southwest Airlines asked you
7 to go back and find messages from Ms. Carter, did
8 they tell you to only go back 18 months?

9 A. I don't recall a specific time frame. I think
10 they requested that I send any communication that I
11 had received via Facebook to the best of my ability.

12 Q. Did you only send Facebook communications?

13 A. I don't recall if, at that point, anybody asked
14 if there had been any communication through union
15 channels. I know at some point I was asked that. I
16 don't recall if it was at the initial -- in that
17 first, that first conversation.

18 Q. Did you object to sending communications from
19 Ms. Carter that were union activity?

20 MR. GREENFIELD: Objection, your Honor,
21 vague.

22 THE COURT: Sustained.

23 Can you reframe it?

24 BY MR. PRYOR:

25 Q. Did you review the communication -- first of

1 all, when Ms. Carter sent you communications, did
2 you even read them?

3 A. Not all of them, no.

4 Q. Which ones did you read?

5 A. I couldn't even tell you which ones I read,
6 there were so many.

7 Q. And so at some point, did you stop reading
8 them?

9 A. Yes.

10 Q. And of the ones that you read, she was
11 complaining about things that you or the union were
12 doing, correct?

13 A. Not always.

14 MR. GREENFIELD: Vague, lacks specificity.

15 THE COURT: I will allow it.

16 BY MR. PRYOR:

17 Q. You are going to tell us that we are going to
18 see an email or a Facebook communication from her
19 where she's not talking about a complaint about the
20 union, true?

21 A. To my recollection, she sent things quoting --
22 quoting someone, like somebody's, like, hierarchy
23 levels. There were memes, there were pictures.
24 Some of the stuff was campaign related. Some if it
25 was complaining about the union. It was a variety

1 of things.

2 Q. We will go through them, and you can point to
3 the ones that don't relate to her complaints about
4 the union, okay? Because there are going to be a
5 lot, right, from what you just swore to.

6 A. I didn't say there were a lot. I said there
7 were a lot of messages.

8 Q. I must have misunderstood.

9 Let's look at -- I think it's Exhibit 15.

10 MR. PRYOR: I move for its admission.

11 THE COURT: This is 15?

12 BY MR. PRYOR:

13 Q. So this is an email --

14 THE COURT: Hold on.

15 I've got Union prior objections to 15. I
16 can rule on those unless you want a sidebar.

17 MR. PRYOR: What is the objection?

18 THE COURT: Hearsay.

19 MR. GREENFIELD: I think that falls under
20 a previous ruling you found on that, your Honor, so
21 I don't need a sidebar.

22 THE COURT: Okay. So I will overrule
23 those objections. 15 is in evidence and we can
24 publish.

25

1 (The referred-to document was admitted
2 into evidence as Plaintiff's Exhibit 15.)

3 BY MR. PRYOR:

4 Q. So Exhibit 15 is an email from you on
5 February 25th, 2017.

6 By the way, let's back up for a minute.

7 On February 22nd, the day that you made your
8 complaint, it's your testimony you didn't know
9 anything about other complaints being made about
10 other union members by the union to Southwest
11 Airlines?

12 A. At that time, no.

13 Q. At that time?

14 A. No. I don't remember other complaints.

15 Q. You don't remember.

16 When do you remember becoming aware of it?

17 A. I became aware of things if I heard chatter in
18 the grievance office, if someone brought forward a
19 question to me.

20 Q. Chatter. How about emails?

21 A. Sometimes it was emails from people.

22 Q. We are going to look at some documents, ma'am.

23 I'm asking you now, do you remember that in
24 February of 2017, in the time period in which you
25 made your complaint against Ms. Carter, that your

1 union cohorts were making complaints against recall
2 petitioners including Ms. Carter?

3 A. I don't remember.

4 MR. GREENFIELD: Objection, your Honor.
5 He's testifying. Lack of foundation.

6 THE COURT: I will sustain.

7 BY MR. PRYOR:

8 Q. Are you saying at some point you became aware
9 of it?

10 MR. GREENFIELD: Objection, your Honor,
11 same.

12 THE COURT: I will allow it.

13 THE WITNESS: There were numerous time
14 periods where social media activity was high and
15 there were a lot of investigations going on. I
16 don't know about any specific investigations that
17 you are -- I don't know what you are asking about.

18 BY MR. PRYOR:

19 Q. As union president, if one of your core team
20 members gathered information on the Internet about
21 half a dozen or more union members that were part of
22 the recall petition against your administration,
23 gathered all that up and reported them to American
24 Airlines for social media violations, you are
25 telling us you are not aware of that at any time

1 until right now?

2 MR. GREENFIELD: Objection, your Honor.

3 Lack of foundation. Aware of it until right now?

4 Thee's been no evidence.

5 THE COURT: I will allow it.

6 MR. McKEEBY: Can they at least get the

7 right airline? For Southwest.

8 MR. PRYOR: Did I say American Air?

9 THE COURT: Old habits.

10 MR. PRYOR: I represented American
11 Airlines for about 10 years in another life. And I
12 apologize. I apologize to Southwest or American,
13 I'm not sure who I'm offending, and I greatly
14 apologize.

15 BY MR. PRYOR:

16 Q. Let me ask the question again.

17 Are you telling us you never became aware that
18 in February of 2017, that your core team members
19 were reporting recall petitioners to Southwest
20 Airlines for violations of social media policy after
21 having scoured the Internet looking for violations?

22 MR. GREENFIELD: Objection, your Honor,
23 compound.

24 BY MR. PRYOR:

25 Q. Did you ever become aware of that?

1 THE COURT: Objection?

2 MR. GREENFIELD: Compound, your Honor.

3 THE COURT: I will allow that.

4 You can answer.

5 THE WITNESS: There were flight attendants
6 that reported things to Southwest Airlines that I
7 did not know about that they didn't talk to me about
8 in advance that I would eventually become aware of
9 through a variety of means.

10 I cannot right now recall specifics about
11 other people reporting flight attendants at this
12 exact same time.

13 BY MR. PRYOR:

14 Q. Is that your way of saying you don't remember?

15 A. Correct. I don't -- I don't recall every
16 social media case and when it happened, nor was I
17 dialed in.

18 Q. I'm talking about the people that were opposing
19 you, trying to recall you, that your core team
20 members gathered information against them and
21 reported them to Southwest Airlines.

22 I'm not talking about all types of different --
23 I'm talking about this specific instance. And you
24 wouldn't remember the union reporting over half a
25 dozen union members?

1 MR. GREENFIELD: Objection, your Honor,
2 asked and answered.

3 THE COURT: Sustained.

4 BY MR. PRYOR:

5 Q. I take it you don't.

6 MR. GREENFIELD: I renew my objection.

7 THE COURT: I sustained it.

8 MR. PRYOR: Let's look at Exhibit 15.

9 BY MR. PRYOR:

10 Q. And you sent this to Denise Gutierrez at
11 Southwest Airlines along with Suzanne Stephensen, Ed
12 Schneider, and Brett Nevarez, correct?

13 A. Yes.

14 Q. And you say that "These are screen shots of
15 every message Charlene Carter has sent me via
16 Facebook." True?

17 A. Yes.

18 Q. Okay. Let's look at them.

19 The next page. Well, this may work.

20 "Well, Audrey, it looks like you have stepped
21 in dog poo" --

22 By the way, this is March 4, 2015.

23 You got the time frame?

24 A. Yes.

25 Q. "Well, Audrey, it looks you all have stepped in

1 dog poo big time. Funny how that happens when there
2 is little to no integrity with our leadership in
3 TWU. No one is buying your apology except maybe
4 your hardcore followers."

5 Isn't she talking about the apology that you
6 made regarding the core team members?

7 MR. GREENFIELD: Objection, speculation.

8 BY MR. PRYOR:

9 Q. Is that the context?

10 THE COURT: I will allow her to answer if
11 she has personal knowledge.

12 THE WITNESS: I'm assuming so.

13 BY MR. PRYOR:

14 Q. I'm sorry?

15 A. I said I'm assuming so.

16 Q. Okay.

17 But in any event, you issued an apology for all
18 of the horrible things that were said by your core
19 team members on your secret core team Facebook, and
20 Ms. Carter is calling you on it. She's Facebook
21 messaging you about it and says she's not buying it.

22 That's complaining to her union, that's union
23 activity.

24 Do you agree?

25 A. Yes.

1 Q. Okay. Well, let's keep looking.

2 So it says on the next page -- and you can read
3 any excerpts you want, by the way.

4 The next page is "I have experienced the hate
5 before from a few of your board members and staunch
6 supporters, along with threats that are being
7 brought against me for saying the word 'decertify,'
8 even though Brett, who made that threat, did try and
9 decertify from TWU years ago."

10 I think earlier I said Cuyler Thompson, so it
11 must have been Brett Nevarez.

12 But nonetheless, this is a union member
13 communicating with you again about the hateful words
14 that were used on your core team and is complaining
15 about it and about her personal experience with the
16 union.

17 That's union activity that's protected, in your
18 opinion, true?

19 MR. GREENFIELD: I would like, your Honor,
20 to object to this portion as hearsay without an
21 instruction to the jury that this is not being asked
22 for for the truth of the matter asserted, that
23 these --

24 THE COURT: If you've got a speaking
25 objection, you can go for it at sidebar if you want

1 to. I think I know what it is.

2 MR. GREENFIELD: I apologize.

3 THE COURT: So I will overrule that
4 objection. You can continue.

5 BY MR. PRYOR:

6 Q. You can answer.

7 A. Yes.

8 Q. Union activity, ma'am?

9 A. Yes.

10 Q. And you believe it is protected union activity,
11 that she's entitled to do that, true?

12 A. This, yes.

13 Q. Okay. Let's go to the next page.

14 It says, "Vote everyone out of office the next
15 election cycle. Pray that happens from a member who
16 still pays dues, just objects to paying for the TWU
17 liberal political stuff and the sheer disrespect you
18 show to members that do not agree with you."

19 Once again, that's union communication,
20 complaining about her union, and you believe it's
21 protected, true?

22 A. Well, it's inaccurate. She wasn't a member at
23 this point.

24 Q. You can disagree with her, ma'am. I'm not
25 saying you have to agree with a single things she

1 says. I'm saying you agree that it is union
2 activity and she has the right to say it?

3 A. Sure.

4 Q. Sure. But you send it to Southwest Airlines
5 for them to take action against her. You know it is
6 protected, you are the union president, and you send
7 it to Southwest Airlines. Didn't you?

8 MR. GREENFIELD: Objection, your Honor,
9 mischaracterizes.

10 Can I approach?

11 THE COURT: I will sustain that.

12 BY MR. PRYOR:

13 Q. Did you, in fact, intentionally send to
14 Southwest Airlines protected activity of Ms. Carter
15 for them to take action against her?

16 A. No.

17 Q. So you didn't expect them to take action for
18 this, right?

19 A. I sent this to comply with their request that I
20 send messages.

21 Q. You are a union president, ma'am. You can say
22 no to a request that you gather union activity and
23 send it to the management of Southwest Airlines to
24 take action against a union member for engaging in
25 protected union activity. You could have done that,

1 true?

2 MR. McKEEBY: Objection --

3 THE COURT: Hold on.

4 MR. McKEEBY: -- foundation, and it talks
5 about the intent of Southwest Airlines, or the
6 question does.

7 MR. PRYOR: I'm talking about her.

8 THE COURT: Hold on.

9 I will overrule that. You can answer the
10 question.

11 THE WITNESS: I could have refused to send
12 any additional messages, yes.

13 BY MR. PRYOR:

14 Q. And if you wanted to protect a union member's
15 protected union communications, you would have done
16 that, wouldn't you?

17 A. I was trying to protect myself from being
18 harassed further.

19 Q. You were trying to protect yourself by sending
20 union-protected activity to Southwest Airlines about
21 a union member. That is protecting yourself?

22 Violate your union obligations to protect yourself?

23 Do you have an answer or can I go on?

24 MR. GREENFIELD: Objection, your Honor.

25 Assuming facts not in evidence about certain

1 obligations, that's something that should be in the
2 province of the jury.

3 THE COURT: I will sustain.

4 I sustained. New question.

5 MR. PRYOR: Okay.

6 BY MR. PRYOR:

7 Q. Let's look at the next page.

8 It says, "Hmm. Didn't you say in your apology
9 letter that the group where all of the hate was
10 spewed was started by your supporters?"

11 Once again, she's talking about union activity
12 and complaining about what her union is doing. And
13 that is protected union activity, true?

14 A. Yes.

15 Q. Yes?

16 A. Yes.

17 Q. And then the next page. "Talking
18 disrespectfully about members, but y'all allowed it
19 to happen. That sure says a lot about the true
20 character of each of you."

21 Again, she's complaining about her union,
22 right?

23 A. Yes.

24 Q. I'm sorry, I can't hear you.

25 A. Yes.

1 Q. And the next page says, "I opted out of this
2 union. It has been going on a long time. I should
3 know, since I have all of the transcripts from
4 Melissa Smith's trial that I testified. You are all
5 a product of what is wrong with our union."

6 Once again she's complaining about her union,
7 right?

8 A. Yes.

9 Q. And, in fact, she's talking about a current
10 event. She's complaining about the core team
11 publications that came out showing improper activity
12 for which you apologized and she's complaining
13 about, true?

14 A. Yes.

15 Q. These didn't come out of the blue. There was
16 an event that precipitated it, true?

17 A. Yes.

18 Q. And when she talks about Melissa Smith, she's
19 talking about Melissa Smith that got kicked out of
20 office in 2000 by the union after being elected by
21 the members, and she's upset about it, true?

22 MR. GREENFIELD: Objection, your Honor.
23 He's testifying. There's been no evidence
24 presented.

25 THE COURT: Sustained.

1 BY MR. PRYOR:

2 Q. Do you know that that is what she's referring
3 to? Is that how you understand the context of what
4 she's saying?

5 A. Talking about Melissa Smith's trial. Yes, I
6 don't know anything about -- I mean, I wasn't even
7 working at Southwest at that time.

8 Q. It certainly is her complaining to her union
9 about a current event, true?

10 A. Melissa Smith's trial?

11 Q. No, about the context of it. Saying, this is
12 why I opted out, because of all of the horrible
13 things that you guys are doing.

14 And it is in the context of it coming out about
15 what all your core team members were saying about
16 fellow flight attendants that are union members.

17 MR. GREENFIELD: Objection, your Honor.
18 He's testifying and lack of foundation. Again,
19 about what all her union --

20 THE COURT: I will allow this one.

21 THE WITNESS: It's what the message
22 started out as.

23 BY MR. PRYOR:

24 Q. Well, it certainly is still talking about union
25 activity, true?

1 A. Yes.

2 Q. And then the next page. "Corruption at its
3 best. You should be proud of yourselves."

4 She's got a picture of your core team there.
5 That is part of your core team. Oh, there you are,
6 Audrey Stone. Oh. That says "Audrey Stone, TWU."
7 What is that? What is that?

8 A. A Facebook.

9 Q. Oh. So you are using -- I thought you didn't
10 use Audrey Stone, TWU.

11 A. That's not what I said.

12 Q. Oh, I thought it was very rare. It turns out
13 you used it on the core team, right?

14 A. I never said that.

15 Q. So you never used it on the core team or you
16 did?

17 A. I utilized it some on the core team. I never
18 said that I didn't use it.

19 Q. Okay. So once again, this is a current event,
20 complaint about her union from Ms. Carter to the
21 president of her union, true?

22 A. Yes.

23 Q. And, in fact, it was sent to Audrey Stone, TWU,
24 right? That is what you had at the time.

25 A. Yes. This was right afterwards and I hadn't

1 changed it yet.

2 Q. By the way, she was an objector. Frankly, even
3 if she wasn't an objector, you could have blocked
4 her if you wanted to, right? Get someone to block
5 her if you don't know how. But you know you can
6 block people.

7 A. Yes.

8 Q. And you chose not to because she's sending you
9 union complaints, and as union president, you
10 shouldn't turn a blind eye to that, whether it is
11 from an objector or a member, right?

12 A. I chose not to block her at that time. It's
13 something I regret.

14 Q. And then the next page, there is your core team
15 member again. She's talking about she's now read a
16 lot of these horrible things that were said there,
17 and she's upset, and she says, "I see you and your
18 board. Such a shame. Moral bankruptcy."

19 And then she sends you an article explaining to
20 you what morals are, right, in the context of her
21 telling you, our union lacks morals. That is her
22 exercising her union right, true?

23 A. Yes.

24 Q. And that goes on for a few pages. And then --
25 By the way, then there are some blank pages.

1 Do you know why there are blank pages?

2 A. No. It looks like there were photos on the
3 left that aren't being loaded or displayed.

4 Q. Do you know what those were or are?

5 A. No, I don't recall.

6 Q. Let's go to the next page that has some writing
7 on it.

8 Then it says -- it's -- I don't know how to
9 tell you what. It's the page after that one.

10 It says, "This came from a friend of mine in
11 Denver who also had the pleasure of the disrespect
12 from a few of this unelected board."

13 When she says "unelected board," she's talking
14 about your officer team, correct?

15 A. I assume so.

16 Q. Okay. I understand there are a few other
17 unelected boards in the history of your local union.
18 But this, in the time frame that we are talking
19 about, was referring to you and your board, correct?

20 You don't have to assume. You understand that.

21 A. Members of my board. It wasn't the whole
22 board.

23 Q. Now, she's complaining once again about the
24 unelected board, okay, and praying that you will be
25 voted out. She's talking now about that she hopes

1 you get voted out.

2 That is a union activity, she's entitled to
3 suppress her opinion, and it's topical, given what
4 had just happened. Do you agree?

5 A. Yes.

6 Q. And you sent it to Southwest Airlines for them
7 to take action. That was your intent in sending it?

8 A. No. I sent it to Southwest Airlines at their
9 request as part of their investigation.

10 Q. No, ma'am. Just a moment ago you said, "I sent
11 it to protect myself." That's what you said.

12 No, no. But now you are telling me, no, I did
13 it because I was ordered to. Which is it?

14 A. I said earlier it was at their request, and I
15 felt like I had been harassed with that last batch
16 of things she had sent me, and this was sent at
17 their request as part of that.

18 Q. Do you feel like you are being harassed today?

19 A. This entire process has absolutely made me feel
20 like I've been harassed.

21 Q. Do you feel like I'm harassing you by
22 confronting you with evidence and making you respond
23 to it?

24 A. Oh, I think you have been very aggressive and
25 twisted my words throughout today.

1 Q. Which words? Tell me a word I twisted. You
2 get to rephrase it. Let's go for it.

3 MR. GREENFIELD: Objection, your Honor.

4 THE COURT: Sustained.

5 BY MR. PRYOR:

6 Q. What words have I twisted?

7 MR. GREENFIELD: Objection, your Honor.

8 It's the same question.

9 THE COURT: I will allow this one
10 question.

11 THE WITNESS: One of the exhibits earlier,
12 you were twisting the words to say that Cuyler had
13 threatened her, versus the actual sentence that was
14 in the exhibit.

15 BY MR. PRYOR:

16 Q. Fair enough.

17 It turns out I was wrong. It wasn't your
18 secretary officer that threatened Ms. Carter, it was
19 the vice president, Brett Nevarez, that threatened
20 her. I apologize for my mistake.

21 MR. GREENFIELD: Objection, your Honor.

22 Lack of foundation. That evidence has not been
23 presented at any point during this trial.

24 MR. PRYOR: It is what she just said. She
25 said it should have been Nevarez, not Cuyler.

1 THE COURT: I'll overrule the objection.

2 Ask a new question.

3 BY MR. PRYOR:

4 Q. Let's look at the next page.

5 And she's forwarding you something that someone
6 had sent that's -- she says that she wants to vote
7 you out of office so we can bring back truth,
8 transparency, integrity and unity.

9 And she has included in this string, it's not
10 from her, but someone posted "Fucktard. I voted
11 Brett Nevarez because he respects me."

12 That is a commentary on the "fucktard" language
13 used about flight attendants in the core team, true?

14 A. Yes.

15 Q. And so once again, she's pointing out with a
16 visual the improper activity of her union, in her
17 opinion, true?

18 A. Yes.

19 Q. Let's look at the next page.

20 By the way, I keep looking for -- you told me
21 that none -- I can keep going through all of this.
22 It all relates to union activity, ma'am.

23 A. I never said none.

24 Q. I thought you did. I thought you said there
25 were memes. I thought you said there were things

1 unrelated.

2 In fact, isn't it your testimony that every
3 communication you received from Ms. Carter related
4 to her complaints about the union?

5 A. No, I do not believe some of these things --

6 Q. Let's keep looking then. So far we have seen
7 topical, timely, complaints about her union. True?

8 A. No. I don't think it's timely. I don't think
9 bringing up a trial, a union event that took place
10 22 years ago is timely.

11 Q. So she's raising it as an example of the
12 continued corruption of her union in regard to
13 something that had just occurred, and she's saying,
14 wow, this is typical. This is -- you guys have done
15 this before.

16 And you are saying that is not topical, to
17 raise that issue?

18 MR. GREENFIELD: Objection, your Honor.
19 He's testifying about what Carter was intending with
20 these messages.

21 THE COURT: Hold on. Hold on. Speaking
22 objections.

23 MR. GREENFIELD: Sorry, your Honor.

24 MR. PRYOR: I'm testing her answer.

25 THE COURT: I will allow this question.

1 THE WITNESS: I didn't say it wasn't
2 topical. I said I didn't think it was timely.

3 BY MR. PRYOR:

4 Q. So let's look at the next page. It says, "This
5 is what radical unions like TWU use to get their
6 way, smart things being used by this unelected
7 board. But people are waking up to the tactics and
8 some day the chickens will come home to roost.
9 Praying to God it comes sooner than later."

10 Once again, she's talking about her complaints
11 about the union, true?

12 A. Yes.

13 Q. And then she says "radical unions," and then
14 she gives you examples from Alinsky as to what the
15 rules for radicals are to further make her point
16 that her radical union is not representing her.

17 Do you see it?

18 A. I see some of it.

19 Q. I can bring you a copy of this exhibit if you
20 want.

21 That is what she's doing, right?

22 I can read it.

23 A. I'm looking at it.

24 Q. Okay. Is that what she's doing?

25 A. Would you repeat the question, please?

1 Q. Yes. She's telling that you what you guys are
2 doing is radicalizing the union, and then she's
3 giving you examples of what radicalization means
4 through the rules that she's going through.

5 It is relating to her complaints about her
6 union, to show that what you are doing is
7 radicalizing the union.

8 You don't have to agree with her, but that is
9 what she is doing.

10 A. I don't. I think that's what she was intending
11 to do.

12 Q. You think what?

13 A. I said I don't agree. I think that is what she
14 was intending to do.

15 Q. Okay. I understand you don't agree with her,
16 but she's complaining to her union about being
17 radicalized and giving examples of what
18 radicalization means, right?

19 A. Yes.

20 Q. All right. Then let's go to the page that
21 says, "My attorney called it blatant discrimination.
22 I wonder who on the EB called in this favor for
23 Brian."

24 You know what this one is about, don't you?

25 A. I think so.

1 Q. You don't?

2 A. I said I think so.

3 Q. Okay.

4 And what happened is Brian Talburt violates
5 social media policy and he doesn't lose his job.
6 And she's saying that is blatant discrimination.

7 Your core team member gets off the hook --

8 MR. McKEEBY: Objection, your Honor,
9 relevance.

10 THE COURT: Hold on. Sustained.

11 MR. PRYOR: To the complaint being made?
12 Okay.

13 BY MR. PRYOR:

14 Q. What do you understand this to be about? Is it
15 relating to her complaints about the union and union
16 members and how some are treated differently than
17 others, in her opinion?

18 A. That is what she's claiming, yes.

19 Q. Is she allowed to raise that complaint?

20 A. She can, yes.

21 Q. And in fact it's timely, it's talking about an
22 event that just happened, true?

23 A. Yes.

24 Q. So far we have seen timely complaints about the
25 union.

1 Let's look at the next page.

2 She's saying, "Hmm. It looks like there is
3 another group that is not happy with TWU. TWU Local
4 577 is now attempting to decertify. This letter
5 below from Local 577, contract negotiators, they
6 quit."

7 She's pointing out that the transportation
8 workers union that she's complaining about, that
9 other people are complaining too, and she gives you
10 an example. True?

11 A. Yes.

12 Q. It sounds like union activity, doesn't it?

13 A. Yes.

14 Q. So that goes on for a couple of pages.

15 Let's see where the next thing is.

16 Let's look at the page -- it's hard to read.
17 It looks like SWA 612. It looks like that is where
18 we pick up.

19 And she says, "Hey, where did Mr. Talburt go?
20 Will there be another favor called in? And to think
21 you condoned his behavior, along with Brett and the
22 rest, really shows your lack of morals. Praying
23 that changes."

24 Once again she's complaining about her union,
25 right?

1 A. She's talking about someone -- a flight
2 attendant's investigation, and complaining about, I
3 guess two of us involved with the union. So yes.

4 Q. So let's see. She's complaining about
5 Mr. Talburt, your core team member, who is involved
6 in the inappropriate communications that she's
7 complaining about. Brett Nevarez, an officer, the
8 same thing, and she's sending it to you.

9 And you are telling us that is not complaining
10 about the union, this is talking about something
11 completely unrelated.

12 A. That is not what I just said.

13 Q. So it is union related, correct?

14 A. Yes.

15 Q. And then, lo and behold, the next page, she
16 says, "Well, well, well. Brian is back and so many
17 more."

18 MR. PRYOR: Your Honor, may I approach?

19 THE COURT: You may.

20 (Thereupon, the following proceedings were
21 had at sidebar:)

22 MR. PRYOR: Your Honor, I would ask --
23 give whatever limiting instruction you want.

24 But my client is sending her -- these are
25 the messages they fired her for. She's sending a

1 union complaint saying -- let me finish -- that,
2 hey, what Brett Nevarez is doing, he had been
3 charged with something, and she predicts, oh, yes,
4 he will get off. And sure enough, that is what her
5 next text says. He gets off.

6 That is the substance of her opinion and
7 what she's writing --

8 THE COURT: You're very loud right now.

9 MR. PRYOR: Okay. I apologize.

10 THE COURT: You only have to be picked up
11 by the mic, not by the jury.

12 MR. PRYOR: I'm sorry. It's not my
13 intent.

14 THE COURT: Understood.

15 I mean, so I think it's already come in,
16 right, against my wishes.

17 MR. PRYOR: If it came in against your
18 wishes, I will not --

19 THE COURT: So I mean I'm not inclined to
20 bring it up to a fifth time. The jury has already
21 heard it, that he got reinstated. So I think
22 they've heard it. I don't think we need to --

23 MR. PRYOR: I will not say it again then.

24 If it came in over your ruling, I also
25 want to mention --

1 THE COURT: This is a good stopping
2 point --

3 MR. PRYOR: Okay. I'm done.

4 THE COURT: With it being 5:00, are we
5 near a breaking point?

6 MR. PRYOR: Sure, you can stop any time.
7 But I'm going to finish in another -- I don't want
8 to say 30 more minutes, but I have got some more
9 time with her.

10 THE COURT: Can you finish by 5:10?

11 MR. PRYOR: No, sir.

12 THE COURT: Then let's break here and come
13 back tomorrow at 9:00.

14 MR. PRYOR: Yes.

15 (Thereupon, the sidebar was concluded and
16 the following proceedings were held in open
17 court:)

18 THE COURT: It is 5:00, so we are going to
19 let y'all go.

20 So we will come back here at 8:45 in the
21 morning, get on the record, and going by 9:00.

22 So same instructions as always. Only talk
23 to your fellow jurors and court personnel, just not
24 about the case. Don't talk to anyone else. And
25 please keep an open mind and don't do any research

1 on the case.

2 All rise for the jury.

3 (The jurors exited the courtroom.)

4 THE COURT: All right. You are excused,
5 but you still can't talk to anyone about the case.

6 I'm sorry that we are carrying you over to
7 tomorrow. We will see you tomorrow at 9:00. Thank
8 you, Ms. Stone.

9 Okay. I will wait and we will take up any
10 other issues y'all have once she's out.

11 (The witness exited the courtroom.)

12 THE COURT: All righty.

13 Anything we should talk about? I know
14 Nevarez. Any peep on Nevarez?

15 MR. McKEEBY: No. We sent him another
16 communication today.

17 THE COURT: Okay. I guess the deadline is
18 tonight at 11:59.

19 MR. GREENFIELD: And a joint one last
20 night as well.

21 THE COURT: Right. Nothing.

22 So here is my read on a path forward on
23 Nevarez. So I think what I would need to do next is
24 set a show cause order out. It's awkward to send a
25 show cause setting a hearing for someone who is

1 beyond 100 miles. I could do it, or say, in the
2 alternative, explain in writing your delay if you
3 choose not to show at the hearing and do it in sworn
4 form.

5 The problem is, once I have a failure to
6 respond to a show cause order, the next remedy is a
7 motion for contempt. But then if he's not within
8 100 miles, I would have to transfer to a judge who
9 is within 100 miles of him. All right. And we see
10 what that judge does on their timelines.

11 So my request will be, let me know at
12 8:30 in the morning if there has been any
13 development on Nevarez. I will draft a show cause
14 order.

15 And then if I do it and he fails to
16 respond tonight and fails to respond to the time I
17 set in the show cause order, then I will ask if
18 Carter wants to file an appropriate motion and have
19 me transfer it to a judge wherever he's at.

20 And then I need information from Southwest
21 and the Union on where Nevarez would be at, right?
22 Because I don't know who to transfer it to if I
23 don't know his schedule.

24 MR. CLOUTMAN: He lives in Las Cruces, New
25 Mexico.

1 THE COURT: Las Cruces, New Mexico. Okay.

2 MR. CLOUTMAN: I believe there is a
3 district court sitting there, or Albuquerque. He
4 rotates through there.

5 THE COURT: Okay. Any thoughts, comments
6 on that course of action?

7 MR. PRYOR: I have a comment. To me, it
8 is two issues.

9 Certainly Mr. Nevarez, I agree that's the
10 procedure that has to be followed with a
11 miscellaneous proceeding, but there is also the
12 issue of the order to Southwest Airlines and the
13 Local 556.

14 They have control of this person. They
15 should have produced him. I understand they are
16 saying, We can't get ahold of him.

17 Well, that is pretty convenient about a
18 witness that has got a lot of bad testimony to give
19 in this case, and we would ask for our relief in
20 that regard.

21 THE COURT: I understand.

22 And my point is we are not there yet. I'm
23 still trying to obtain his testimony.

24 And if another judge can secure his
25 attendance via a marshal and some shackles, if there

1 is a judge within 100 miles of him and the judge
2 issues a contempt ruling, then the marshals will
3 take that out and bring him in, in leg irons. And
4 so he could sit for a depo there or for live
5 testimony by Teams there, right?

6 So we are still looking at securing his
7 testimony. The question is how do we do that?

8 If we can't, then I need to look at
9 alternate remedies. I need to look at do I assume
10 the questions that you asked him would be answered
11 the way that you would want them answered.

12 I haven't thought through that yet because
13 I'm not there yet.

14 MR. PRYOR: Thank you.

15 MR. McKEEBY: There will be the
16 opportunity to argue that, I trust.

17 THE COURT: Of course. Absolutely.

18 Okay. Any other issues? I have got my
19 prioritization on depo designations and who is up
20 next. So we are looking at Conlon and Kleburne and
21 Burdine and Rutherford.

22 MR. GOTTFRIED: Your Honor, we have
23 out-of-town witnesses, and I don't know exactly
24 their schedules in terms of the duration of their
25 stay in Dallas.

1 But I would like to get a better sense of,
2 in particular, when they intend to call Ms. Emlet
3 and Mr. Schneider.

4 And I guess also generally, maybe a bit
5 more precision as to the witnesses. Last night we
6 got a -- the email indicated that they would be
7 calling today, I think, six different witnesses, and
8 we are not even through one.

9 So I would ask that they give us a little
10 bit better notice and specifically tell us with
11 respect to these out-of-town witnesses when they
12 intend to call them. They need to be done this week
13 if at all possible.

14 THE COURT: Understood.

15 What can y'all tell us at this point in
16 time, especially as it relates to the
17 out-of-towners?

18 I know when it comes to in-towners, I put
19 the burden on y'all for 6:00 at night. We're not
20 far from that, so you will have to tell us soon.

21 But on the out-of-towners, what can you
22 tell us as far as the run of show and when you can
23 expect to call them?

24 MR. PRYOR: We gave them our list of
25 witnesses in order; that is still the case.

1 I don't have the email in front of me.

2 But we will call Mr. Talburt after
3 Ms. Stone. We would then call Mr. Nevarez, although
4 that does not appear likely.

5 We will then call Mr. Parrott. Then
6 Parker, by deposition. Conlon, possibly by video.
7 Possibly Mr. Sims.

8 And that may be after I talk to the Court
9 about time. And if there is not going to be time,
10 then we may cut Mr. Sims.

11 Mr. Schneider will be called. That would
12 be the next witness.

13 Basically giving our trial strategy away
14 here to try and satisfy that request. That is
15 pretty far down the line.

16 THE COURT: So is Hamlet on the list? I'm
17 just trying to think. So Schneider and Hamlet are
18 the two out-of-towners you are asking about.

19 MR. MCKEEBY: Emlet and Schneider.

20 THE COURT: Emlet. Sorry.

21 MR. PRYOR: Emlet is on the list.

22 After Schneider, I anticipate it will be
23 Ms. Hudson and then Ms. Emlet.

24 THE COURT: So the question is, are they
25 off the hook? Can they leave town for a day or two,

1 or how fast do you expect to go, assuming that we
2 don't have Nevarez here. And I don't know the
3 answer to that.

4 Can I ask a question right quick on
5 cleanup? Conlon, you said by video. Are we talking
6 live video Teams or video depo?

7 MR. PRYOR: Live video. Video deposition.
8 I'm sorry.

9 THE COURT: Video depo. Got it.

10 I'm just making sure, because Conlon is
11 the first on my list to go through page/line
12 objections. If it was a live video, then we scrap
13 the page/line. So I'm just making sure it is a
14 video depo.

15 Well, I'm trying to figure out if there is
16 a day off for Emlet and Schneider tomorrow. That is
17 what I'm trying to figure out.

18 I don't know the answer to that. If these
19 witnesses are super efficient, then sure, right? If
20 we skip Nevarez and the Parker depo is quick,
21 then --

22 MR. PRYOR: As we said in our motion
23 regarding more time, our two long witnesses are
24 Ms. Stone and Ms. Carter, which we anticipate they
25 would take half of our case.

1 The rest we would like more time with, but
2 obviously, it is what the Court gives us.

3 THE COURT: Understood.

4 Okay. So do you all anticipate getting to
5 Schneider or Emlet tomorrow? That's my question.

6 I mean, y'all can't forecast what they are
7 going to spend on cross.

8 MR. GILLIAM: I would say Emlet is
9 unlikely. I would say Schneider is --

10 THE COURT: Possibly by the end of the
11 day?

12 MR. PRYOR: I would think Schneider at the
13 end of the day or the next morning.

14 THE COURT: Sure.

15 MR. GREENFIELD: Your Honor, while John
16 Parrott came up, is there any way we can make him
17 available via phone call? He is local. He sat here
18 all day patiently, and it was pretty clear he wasn't
19 going to go. We only caught him in the hall at that
20 last break, to say, Hey, you can get out of here.

21 Is there any way we can make that notice
22 via phone call so he doesn't have to be here at
23 9 a.m. tomorrow?

24 THE COURT: So Talburt is going next after
25 Stone?

1 MR. PRYOR: Yes.

2 THE COURT: Sure. I mean, I would assume
3 we wouldn't get to Parrott until like 10, 10:30.

4 MR. PRYOR: I'm very hopeful to finish
5 after another hour or less with Ms. Stone.

6 THE COURT: And we still have got cross,
7 wide-open cross.

8 MR. PRYOR: I don't know how long that is
9 going to take. If they want to do their case cross,
10 that's fine.

11 How long are you going to take?

12 MR. GREENFIELD: I would presume that
13 Stone alone will take us into the afternoon, your
14 Honor.

15 THE COURT: Sure.

16 MR. PRYOR: I didn't hear. How long?

17 MR. GREENFIELD: I presume -- at least,
18 based on my anticipation, I can't speak for
19 Southwest -- that depending on when you wrap up
20 Stone, it will probably get us to lunchtime by the
21 time the two of us are done would be my guess.

22 MR. PRYOR: Oh. So we may not get to
23 Schneider tomorrow then if you are going to take
24 that long.

25 Okay. I don't know.

1 Well, do you think you will be done by
2 noon?

3 MR. GREENFIELD: I can't possibly make
4 that representation.

5 MR. GILLIAM: We are trying to give you
6 some of our forecast.

7 THE COURT: How about this.

8 MR. GREENFIELD: You guys took all day
9 with one witness and you said you might call six.

10 THE COURT: Tell Parrott to be here by
11 12:30. We can break for lunch. If we need to break
12 for an early lunch at 11:30 when we finish with the
13 final round of examination on Stone, so be it, and
14 then Parrott can be here 12:30, and then we can pick
15 up and go.

16 Does that make sense?

17 MR. PRYOR: That's fine. I don't think we
18 will get to --

19 THE COURT: All right. And Schneider is
20 probably off tomorrow. Emlet is probably off
21 tomorrow. Got it.

22 Anything else?

23 When you send your emails at 6:00 and
24 8:00, can you also copy Ms. Silver on it, not just
25 Mr. Frye? The law clerks work all sorts of hours

1 because they are FSLA exempt.

2 So her email, if you don't have it handy,
3 is savannah_silver@txnd.uscourts.gov.

4 All right. See y'all in the morning at
5 8:30.

6 THE COURT SECURITY OFFICER: All rise.

7 (Proceedings adjourned at 5:14 p.m.)

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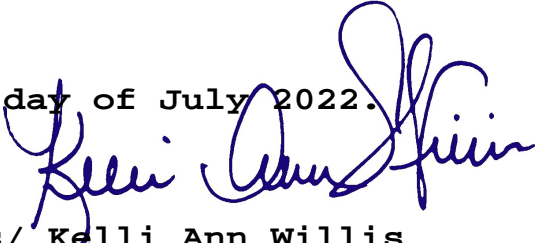
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C E R T I F I C A T E

I, Kelli Ann Willis, RPR, CRR, CSR
certify that the foregoing is a transcript from the
record of the proceedings in the foregoing entitled
matter.

I further certify that the transcript
fees format comply with those prescribed by the
Court and the Judicial Conference of the United
States.

This 7th day of July 2022.


s/ Kelli Ann Willis
Official Court Reporters
Northern District of Texas
Dallas Division

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